

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman
Robert C. Haas, Police Commissioner
Daniel Turner, Deputy Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts 02139
Tuesday, November 24, 2009
6:10 p.m.

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P R O C E E D I N G S

MS. LINT: License Commission General Hearing, Tuesday evening, November 24, 2009. It's 6:10 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. Before you are the Commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, Commissioner Robert Haas.

If anyone is here for the application of Basha Cafe that's been continued to January 19.

MR. SCALI: Anyone here on Basha?
I see no hands.

MS. LINT: And the Red House/Charlie's Kitchen has been continued to January 5.

MR. SCALI: Anybody here on Red House/Charlie's Kitchen? I see no hands on that either. January 5.

Motion to accept the minutes from our last meeting which was on November 10.

MR. HAAS: Motion.

MR. TURNER: Seconded.

MR. SCALI: Moved and seconded. All
in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: All right, Mrs. Lint,
where are we going first?

MS. LINT: The first item on the Addendum: Disciplinary Matter: Sweet Lily Corporation d/b/a Spice and Rice Restaurant, Veeraded Kridiratikorn, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at 1172 Cambridge Street due to a police report dated November 1, 2009, which states that there was a report of a noise violation and for serving patrons after 1:00 a.m.

MR. SCALI: Good evening.

MR. SCALI: Officer Munro is here. If you want to just pull up your chair a little closer. Tell us who you are for the record. We'll start right over here.

MS. HO: Good evening, Mr. Chairman, Commissioners. My name is Widdy Ho, I'm the attorney for Sweet Lily Corporation. On my left is Penjan Janburiwong. She's the owner of the restaurant. And next to me is Dom Kridiratikorn, the manager.

MR. SCALI: We're going to start with Officer Munro. If you could give us your name and

title and your report for the evening of September 20. Am I right? No, I'm sorry, November 1. I'm looking at the wrong letter.

OFFICER MUNRO: Would you prefer that I read the report?

MR. SCALI: Whatever is more comfortable for you, Officer.

OFFICER MUNRO: Officer Jan Munro with the Cambridge Police Department. I'm assigned to the Patrol Division.

On November 1, 2009, at approximately 2:14 a.m., but with the time change it actually ended up being 1:14 a.m., the Spice and Rice Restaurant was in violation of its license. Units were dispatched to the Spice and Rice Restaurant, which is located at 1172 Cambridge Street, on a noise violation.

On arrival, there was a large crowd both inside and outside the establishment. From outside the restaurant we could hear loud music and could see people inside drinking. We entered the establishment and observed several bartenders

behind the bar serving patrons.

My partner and I, which is Officer Mokey (phonetic) requested our sergeant, who is Sergeant Boyle, respond to our location due to the license violation. On scene we located the manager who was later identified as Penjan Janburiwong, but she produced a Mass. driver's license in the name of Mudka Supinasonwong (phonetic).

During our conversation, we explained to Ms. Janburiwong that she could not be serving alcohol at this hour although it was Daylight Savings Time. She stated that the restaurant had stopped serving alcohol a while ago, although we had seen the bartenders serving patrons as we walked in. At the time of our arrival there was a DJ on scene that was still playing music and customers inside drinking.

After several inquiries with speaking with her she was able to write down her name and date of birth, which was in contrast to the ID that she gave to us and stated to officers that the ID she gave us, she thought that was the picture of

her on the license. During our response she was very uncooperative and was providing vague answers to our questions.

We then attempted to identify the bartenders on scene, in particular the male bartender we saw serving the alcohol. When my partner requested his ID, the male walked in the back room and fled the establishment possibly through the back door.

When we requested his information the woman we spoke to earlier, which was Penjan Janburiwong, stated that she did not have his information and did not know who he was. After several times of asking her, she wrote down the name of Santorn Supinisa. It is unknown at that time why he fled the establishment.

We then attempted to identify the female bartender who was also serving alcohol. She originally stated she did not have any identification but did provide the same license that Penjan Janburiwong originally provided us. After requesting her information several times she

was identified by that actual identification as Mudka Supinasonwong. Several staff members said that she was unable to provide accurate information because she was slightly intoxicated.

We advised Ms. Janburiwong that a report would be generated regarding the license violation and would be forwarded to the License Commission. When we arrived on scene the bartenders did not stop serving alcohol until we made our presence known, and during the entire investigation at the location all the staff members were very uncooperative with providing identification as well as the information as to the whereabouts of that male bartender on scene.

I would also like to make note that I was working yesterday when I received a phone call at the front desk and it was a woman claiming to be the attorney, which I believe was you, who wanted to speak with me prior to the hearing. I explained to her that any information I had would be presented at the hearing today, which I had to explain to her several times because she was

persistent on the phone.

MR. SCALI: Let me see if I got the timing right. You and your partner were there at what was 2:14 a.m.?

OFFICER MUNRO: Right, but with the time change it then became 1:15 a.m., but their license still would have been --

MR. SCALI: Under the change of time, if it gets to be -- the time changes at 2:00 a.m., so if you close at 2:00 a.m., you're closed. You can't go back an hour.

OFFICER MUNRO: Yes.

MR. SCALI: So it still would have been 2:14 a.m.

OFFICER MUNRO: Right.

MR. SCALI: When you walked in you immediately observed people still drinking?

OFFICER MUNRO: Right. When we walked in there were a bunch of people outside. The door was open. We walked in and observed both a female and male bartender still serving people as we were walking in. The DJ was still playing and everybody

was still drinking inside. There was a good crowd inside.

MR. SCALI: So you heard a DJ playing?

OFFICER MUNRO: Yes. The DJ was still there even after we stopped everything.

MR. SCALI: I don't think they have a license for a DJ.

MS. LINT: No, they don't.

MR. SCALI: So then you walked in and people were still eating and drinking?

OFFICER MUNRO: They were still drinking.

MR. SCALI: At that point, you talked to -- who did you talk to?

OFFICER MUNRO: I spoke with this woman right here who gave me a different identification than who she really was. She gave me an ID that she said was her, but it ended up not being her. It ended up being the female bartender.

MR. SCALI: How did you figure that out?

OFFICER MUNRO: When we asked the

female bartender she gave us the same ID, and then we looked at the picture and tried to figure out who was who.

MR. SCALI: Was there some confusion or something as to what you were asking her to do, or something like that? Was there a language barrier?

OFFICER MUNRO: I don't believe so. We had no problem communicating with them. It was more of just being difficult, I felt.

MR. SCALI: Then you looked at her ID and you then realized it wasn't her?

OFFICER MUNRO: Right.

MR. SCALI: Then what did you do?

OFFICER MUNRO: I had her write down her name and date of birth for us.

MR. SCALI: And then you went and talked to somebody else?

OFFICER MUNRO: Then we spoke with the male bartender who was still behind the bar. When my partner requested his identification he said he didn't have it on him; he had it in the back. He

went out back and we didn't think to follow him out back because we figured he was going to come back, and he left. He went out the -- he went around, you go around and there's a kitchen downstairs and there's a door right out there that goes out to the back and it was open.

MR. SCALI: So you didn't ID him? You didn't know who he was?

OFFICER MUNRO: I had no idea who he was.

MR. SCALI: Did you question the manager of record at all?

OFFICER MUNRO: We asked if she was the manager. She said she was in charge for the evening. We asked her what his name was. At first, she said she didn't know. We asked her if she had an office, like in order to pay them there must be payroll information. She said she didn't have it but she did give us just a first and last name afterward.

MR. SCALI: And then they continued to be uncooperative with you at that point?

OFFICER MUNRO: Yes. We explained to them that we observed them serving alcohol when we walked in but she stated that they had stopped serving a while ago. Then we had a real difficult time identifying everybody.

MR. SCALI: Was it a large crowd of people?

OFFICER MUNRO: There was over 20 people, maybe 30 there, and there were still people outside. I don't know if they were waiting outside. They shut the music down so we all could speak with each other.

MR. SCALI: So the music was up loud?

OFFICER MUNRO: Yeah. That was what the call was for. It was for the music.

MR. SCALI: Was that Halloween night?

OFFICER MUNRO: Yes. It was Halloween going into --

MR. SCALI: It must have been a wild Halloween party going on.

At that point then, did they shut down, or did you tell them to shut down?

OFFICER MUNRO: The music shut down. Our sergeant had already responded and we shut them down for the night.

MR. SCALI: People were exiting at that point?

OFFICER MUNRO: Yes. We had people leaving the establishment and they were getting rides.

MR. SCALI: Questions from the Commissioners?

MR. HAAS: So the individual sitting to your right identified herself as the manager or the person in charge?

OFFICER MUNRO: Person in charge, yes.

MR. HAAS: When you mentioned that somebody was slightly, or somebody told you they were slightly intoxicated, were they referring to her or somebody else?

OFFICER MUNRO: They were referring to the female bartender that was also serving at the bar.

MR. HAAS: Did you make any

observations about her sobriety?

OFFICER MUNRO: She just seemed very confused and upset. When she gave the same ID and we didn't know who was who, we explained that this was becoming problematic because we weren't able to identify anybody, and it would just be easier if they'd cooperate. She started crying, and one of the guys came over and said that she had been drinking and that's probably why she was having trouble understanding what we were saying.

MR. HAAS: But she was working as a bartender?

OFFICER MUNRO: Yes. She was working as a bartender.

MR. SCALI: But you didn't observe her drinking?

OFFICER MUNRO: I didn't observe her drinking, no.

MR. SCALI: Did she smell of alcohol?

OFFICER MUNRO: I didn't get very close to her. We were just -- she was more upset than anything.

MR. HAAS: No other questions.

MR. TURNER: No questions.

MR. SCALI: Ms. Ho, you have the opportunity to ask questions through me to the officer.

MS. HO: First of all, my clients express their sincere regrets about the incident that happened. Again, that was an isolated incident. It was on Halloween night. Business has been really rough. That was the only time that she had that DJ, on that night. She was working in the kitchen.

MR. SCALI: Who is she?

MS. HO: Penjan, the owner. She was working in the kitchen in the back. She didn't know what was going on so when she came out she saw police and she was totally disoriented and was really scared because this is the very first time that she has dealt with the police under those circumstances.

In fact, at that time according to been Penjan, a lot of the folks, even the

customers, they all left as soon as they saw the police come in. The gentleman behind the bar, he is brother of the female bartender, Mudka. She is a part owner of the restaurant.

So according to Penjan, because she was working in the kitchen, she had all ready told the folks to stop serving liquor. So again, she was inside the kitchen so she wasn't able to really control it. In hindsight, she should have.

She was told that they were just packing up and cleaning up the bar, but again, that's what they told her. So when she came out and answered the questions, she was really scared and I don't think she meant to be uncorporative or misleading in any way. She was just totally disoriented.

You know Penjan, Penjan has been a good citizen of Cambridge since 1998, and she participated in the annual Taste of Cambridge, and things of that sort. She also owns another restaurant if you remember, in Porter Square at the corner of 1933 Mass. Ave. and Davenport, Sugar and

Rice -- Sugar and Spice. She single-handedly turned that restaurant into a really beautiful restaurant. And that corner used to be a diner and now it's a beautiful restaurant.

And aain, I'm detouring a little bit but --

MR. SCALI: I'm kind of concerned as to why did she give a different ID to the officer that wasn't hers?

MS. HO: I think they were shopping on that day.

MS. JANBURIWONG: On that day I have to buy some stuff for cooking, and I didn't bring my bag because I have a big bag. So I put my ID and the credit card in there but I cannot find it. It's in the bag but you see I have one credit card in there. I show you. Did you find it?

OFFICER MUNRO: I don't know.

MR. SCALI: Why don't you speak to us? How did you have someone else's ID?

MS. JANBURIWONG: Because in Mudka bag, not my bag.

MS. HO: She was working in the kitchen so she was wearing those work clothes. When she was asked to produce an ID, she was totally disoriented.

MS. JANBURIWONG: It was in there but I couldn't find it.

MR. SCALI: Did you realize you were giving her the wrong ID?

MS. JANBURIWONG: No, after she said.

MR. SCALI: You didn't look at it first? You should know your own ID; right?

MS. JANBURIWONG: Yes, I should.

MS. HO: After that incident, she knew that the liquor license is supposed -- you know, the closing hour is 1:00, and she was supposed to have served liquor -- the last call is 12:30 and all that.

I think she got also confused with the Daylight Saving Time. She thought that she had an extra hour because it was Halloween night and everybody was there. But she did stop them. She did tell the employees to stop serving. Again, she

was cleaning up in the kitchen.

But anyway, after that incident she has hired Frank Connolly from the Cambridge Prevention --

MR. SCALI: Coalition.

MS. HO: She took a training session to refresh the rules and regulations, and she trained the whole wait staff. I would like to submit this as evidence.

MR. SCALI: So you're telling me that -- I'm just summing up from what you're telling me -- somehow she got confused with the Daylight Savings Time, and therefore, at 2:00 in the morning she's thinking it's 1:00 in the morning.

MS. HO: She thought that she had an extra hour. This is the honest truth. It was an honest mistake. She thought she had an extra hour. But again, like you said, it stops at 2:00 in the morning, the Daylight Savings Time. She should have closed by that time. So she know -- now in hindsight, she knows she made a mistake.

MR. SCALI: What about the DJ? Do you

have a DK on a regular basis?

MS. HO: Absolutely not. That was just a one night thing because of Halloween. She just tried to compete with the competition but she didn't know that she had -- she thought that she had an Entertainment license but she didn't know she doesn't have a DJ license. Again, that was the only time, and that will be the last time as well.

MR. SCALI: Do you have any questions for the police officer?

MS. HO: No. I'm not going to dispute the facts. It did happen but there were some mitigating circumstances. There were some crowds outside because it was raining on that evening. So some people were waiting for the taxis to come.

MR. SCALI: It rained later that evening.

MS. HO: It was a little bit --

MR. SCALI: What was the point of being uncooperative with the police officers?

MS. HO: I don't know. You know Penjan, she's not an uncooperative person. She's

always very friendly and very --

MR. SCALI: Not to Officer Munro she wasn't.

MS. HO: I know, I know. It's unfortunate I think it came across that way, but she was just very scared. She's a citizen of the United States and I don't know why she was so scared, but she never dealt with the police under that circumstances. That's my only explanation and that's her explanation as well. It was the honest truth that it came across as uncooperative but there was no reason to. She knew that she made a mistake and she violated the license rule, and she just has to deal with it and move on. She admitted that she made a mistake and she took positive action by hiring Frank Connolly to re-train her staff.

The other thing is, again, she's been a good Cambridge citizen and life has not been kind to her recently because she lost her mother five years ago with ovarian cancer, and in March of this year, her baby sister was diagnosed with ovarian

cancer again. So she's been in and out of the hospital to take care of her sister. And also with business not being good, so she has also to work in the kitchen as well on that evening.

So yes, she made a mistake and she admitted it. There are also some mitigating circumstances that I hope the Chairman will take that into consideration.

MR. SCALI: Is she the manager that's there all the time? Where's the gentleman that's the --

MS. HO: Dom is the manager but Penjan spends a lot of time there.

MR. SCALI: The manager of record is?

MS. HO: Dom Kridiratikorn.

MR. SCALI: That's this gentleman here?

MS. HO: Yes.

MR. SCALI: Are you there on a regular basis as manager, and she works in the evening? How does that work?

MR. KRIDIRATIKORN: I'm not there on a

regular basis.

MR. SCALI: You're not there at all?

MS. HO: She's the major person to be there.

MR. SCALI: So we need to have a change of manager.

MS. HO: We will.

MR. SCALI: Are you at a different location or something?

MS. HO: Yes.

MR. SCALI: Another restaurant somewhere?

MS. HO: Right.

MR. SCALI: Questions?

MR. HAAS: I just want to get this straight: You are supposedly the manager but you're not the manager of record? And the person who was behind the bar is a part owner you said?

MS. HO: Yes.

MR. HAAS: And that was her brother that fled the restaurant?

MS. HO: Yes.

MR. HAAS: Does he have an ownership in the restaurant as well?

MS. HO: No, he doesn't. He came back from vacation from Thailand and was just coming in to visit his sister and was helping to clean up the beer bottles and stuff like that by the bar.

MR. HAAS: So he is not an employee of the restaurant?

MS. HO: No.

MR. HAAS: You mentioned mitigating circumstances but the fact that they weren't cooperative with the police, the fact that they were operating a DJ with no license, and you don't have a manager of record on the premises, weighs on the other side. If you want, we can cancel out the mitigation and aggravating circumstances and it is what it is, but to me there are three separate violations there by itself in addition to being open beyond the hours. If their closing hours are 1:00, they're still over by an hour and 14 minutes, even if you got confused by the Daylight Savings Time.

MS. HO: Then it would be 1:14, and she thought she was within that timeframe.

MR. HAAS: She had to get to 2:00 before she got to 1:14.

MR. SCALI: Assuming that she knew that she had to get to 2:00.

MS. HO: It was just a little bit confusing with that.

MR. SCALI: I can understand the confusion on the Daylight Savings; I can't understand them being uncooperative with the police, giving the wrong ID, people fleeing the scene. If you're confused about Daylight Savings Time, you say to the police officer, Gee, I was confused about the Daylight Savings Time and I'm sorry. I can understand that, but like the Commissioner said, there's a lot of things that don't make a lot of sense. Maybe it's just confusion and being scared.

MS. HO: I think the uncooperative aspect of it is not intentional. She was really scared. She is not happy about it. I think she

feels that she has a good reputation in Cambridge, and she feels very bad about it, because being Asian, reputation is very important. She said, "I don't want to have a bad name in the City of Cambridge." Unfortunately it is what it is. She made a mistake and she will hopefully, you know, definitely and hopefully it will not happen again, and she gave that commitment. I think you can hear her say that.

MS. JANBURIWONG: I learned a lesson. I know that I made a mistake and this is my first time to deal with so it will never happen again. I didn't mean to not cooperate with her, I just don't know what to do. Then I don't know that I gave her the wrong ID. I don't have to do that because I'm a citizen.

MR. HAAS: If you're going to become the manager of record and you can't manage the establishment, that becomes a problem also. You're supposed to be maintaining control of the establishment and its affairs, and you're saying you panicked. That doesn't bode well if you have a

situation that goes wrong inside the restaurant. You've got to be able to maintain control of the restaurant at all times if you're going to be the manager of record.

MS. JANBURIWONG: I think everybody can learn. We can learn from the wrong and then we can fix the problem.

MR. HAAS: How you going to learn from this experience? I'm assuming you're going to apply as manager of record. I'm guessing; right, since that's your job at the restaurant?

MS. JANBURIWONG: I just want to do regular business hours. I don't want to do that kind of business again.

MS. HO: Again, that was the first time. It was ignorance of the law; it's not a defense, I understand that. Again, like she said, she made a mistake. It's the first time and it has left quite an indelible impression on her. I think she will try very hard to make sure it won't happen again. I hope that the Commissioner will take that into consideration, and also the fact that she's

been a really good citizen of the City of Cambridge for many years, since 1998, and give her a chance, and put it on file without imposing any punishment, and then maybe review it in six months to make sure that she's --

MR. SCALI: You've been looking at our records, haven't you? Is this a first offense?

MS. LINT: It is.

MR. SCALI: How long have you been there?

MS. JANBURIWONG: Nine years.

MR. SCALI: You've been at that location for nine years?

MS. HO: Since 1998.

MR. SCALI: Has it been that long all ready?

MS. HO: I know, time flies.

MR. SCALI: I'm losing my memory, Commissioner. I remember granting the license. I didn't remember it was 10 years ago but I guess it was.

MS. HO: So give her a break. I think

that will be the best Thanksgiving gift that she ever have that you could bestow on her, because given what she has gone through with her personal stuff --

MR. SCALI: I think we've heard all of your arguments. I think we have to look at it very carefully in terms of what the police have to put up with when they go there. They try to help people, and of course, people are being uncooperative with them, and there are other things going on in the City beside just this incident. I'm sure they were very busy that evening as well.

MS. HO: It was Halloween night.

MR. SCALI: Deputy Chief, any comments?

MR. TURNER: No comments.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands. Pleasure of the Commissioners?

MR. HAAS: Take it under advisement.

MR. SCALI: Anything else you want to say to us?

MS. HO: Thank you very much.

MR. SCALI: Motion to take the matter under advisement.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: We vote on December 16 at 10:00 a.m. Thank you, Officer.

MS. LINT: Application: Gamma Pi of Kappa Sigma, Matthew Gregory Richards, Resident Manager, holder of a Lodging House license at 407 Memorial Drive has applied for a change of resident manager to Sanjay Divakaran.

MR. SCALI: I just want to make sure that there are -- I know that this is an MIT application. Are there any other CLAB members that are here?

MS. LINT: I don't believe so.

MR. SCALI: I want to make sure that we take all of our CLAB members first.

MS. LINT: There are none.

MR. SCALI: Good evening. Just tell us your name for the record, please.

MS. NILSON: I'm Karen Nilson, Senior Assistant Dean at MIT for Residential Life.

MR. DIVAKARAN: My name is Sanjay Divakaran. I'm applying for the resident manager application.

MR. SCALI: Can you tell us what your experience is with this location and what your

duties are going to be?

MR. DIVAKARAN: Sure. I'm actually an alumni of the chapter house. I'm an alumni of MIT; I graduated in 2008. I'm currently a second year medical student at Harvard. I'd like to serve as resident advisor for the chapter as an employee of the alumni association, the Gamma Pi Corporation, as well as a resident advisor through the Fraternities/Sororities and Independent Living Group Organization at MIT, and also serve in addition as the resident manager.

MR. SCALI: So you're an alumni of this fraternity?

MR. DIVAKARAN: Correct.

MR. SCALI: So you went away, came back, and then they hired you to do this job and live in this location.

MR. DIVAKARAN: The alumni did, correct.

MR. SCALI: How long are you going to be there?

MR. DIVAKARAN: For three years, for

the duration of medical school.

MR. SCALI: What are your duties there; what are your responsibilities?

MR. DIVAKARAN: My primary responsibility is to make sure I'm the person in charge if there was an emergency or something happens where an undergraduate needs help, I'm there. The other important thing I am is the contact person and for MIT, for the alumni, and for the Kappa Sigma fraternity internationally to get in touch with the undergraduate officers. And finally, to advise the undergraduate officers.

MR. SCALI: This building is next to 405; right?

MR. DIVAKARAN: That's right.

MR. SCALI: Is 405 the one that's closed down?

MS. NILSON: Yes, it is.

MR. SCALI: So that building is not connected to you? You have no access to that other building; right?

MR. DIVAKARAN: The fire escapes

actually go into their building, but they're alarmed since the construction started.

MR. SCALI: Your policy on parties and alcohol is what?

MR. DIVAKARAN: There's no underage drinking allowed. We do allow alcohol in the house as per MIT policy, but it's for brothers who are 21, and it's their personal alcohol. There's no alcohol in any public spaces or any lounges.

MR. SCALI: When there is a party going on in the house, it's in public space, what do you do?

MR. DIVAKARAN: I'm either in my room upstairs or I am actually in the student center nearby doing some work, or nearby in case of an emergency, in case the undergraduates need some help. The undergraduate officers are in charge, and they know the rules, and they've been trained just like I have by the MIT community, and know who to call in case of emergencies. The Chapter house and everyone around them is very important to them. They know the rules and they abide by them.

MR. SCALI: How often do you meet with the MIT administration?

MR. DIVAKARAN: Weekly.

MR. SCALI: So they are actively involved with you and the alumni in that house?

MS. NILSON: Yes, we are.

MR. SCALI: I know that that's kind of a new policy that got changed a few months back, or a year or so back.

MS. NILSON: With our Fraternity/Sorority Independent Living Group office, Khia Miller, who you've met before has worked very closely with this fraternity and with all the fraternities to ensure that the rules and regulations are followed, that training has happened. I'm really pleased to be here tonight with Sanjay, because he has been through all the training. We know that he is an alumnus of MIT. He has worked very closely with the chapter house and we have full confidence that in this role, he will fulfill the duties and continue with the good record that Kappa Sigma has had for the last three

or four years. The house has really done some remarkable things and I'm excited to be here with Sanjay.

MR. SCALI: You feel confident that he can handle it.

MS. NILSON: Extremely confident.

I'm also joined tonight. Sarah Gallop is here with us tonight with our Government and Community Relations, and Donna Denoncourt is also the Associate Dean for Residential Life, who you haven't maybe met before. We are all here in support of Sanjay's application.

MR. SCALI: I know you have so-called laid down the law lately.

MS. NILSON: We sure have.

MR. SCALI: I know the Commissioners and I have been very impressed with your latest actions, and I think this is a great step in the right direction. So I know it's a whole different world now for fraternities at MIT. So I hope you and the students understand that there is no more gray area in terms of who does what. Everyone is

involved, all on one page. We're all agreeing, we're working with MIT, you're working with MIT. We're all working for safety and making sure that everything is run smoothly there. I think you can convey that to the residents there as well.

MR. DIVAKARAN: I will do so.

MR. SCALI: Questions?

MR. HAAS: How many residents?

MR. DIVAKARAN: There's 37 living in the house right now.

MR. HAAS: Are they primarily undergraduate students or are they a combination of graduate and undergraduate?

MR. DIVAKARAN: There are two other alumni that are living there but the rest are undergraduates.

MR. HAAS: So basically what you're saying to me is unless they started college late in life, most of them are underage?

MR. DIVAKARAN: That's right.

MR. HAAS: Is it your practice to be present during planned parties?

MR. DIVAKARAN: It is, or nearby within five minutes away.

MR. HAAS: Who would call you if there was a problem?

MR. DIVAKARAN: The chapter officers.

MR. HAAS: No other questions.

MR. SCALI: And they know how to reach you easily?

MR. DIVAKARAN: Yes.

MR. SCALI: Deputy Chief.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard on this matter?

Is everything all set in the file, Mrs. Lint?

MS. LINT: All set.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Second.

MR. SCALI: Motion to approve, moved and seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Royal Bharat, Inc. d/b/a India Pavilion, Mohan Singh, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 17 Central Square has applied for a change of premises description to include 17-19-21-24 Central Square and an increase of capacity from 60 seats to 95 seats.

MR. SCALI: India Pavilion? We're all set, Mr. Goldberg. You walked in just on time. Good evening. How are you?

MR. GOLDBERG: Good evening.

MR. SCALI: Nice to see you all. Have a seat please. So Mr. Goldberg, just tell us who you are for the record and introduce who you have with you.

MR. GOLDBERG: Bernard Goldberg, 620 Massachusetts Avenue, Cambridge. I'm here representing Mohan Singh, the manager, president, Treasurer of Royal Bharat, Inc.

MR. SCALI: This is a change of premises description which is really an extension of the premises; am I right?

MR. GOLDBERG: Yes, it is.

MR. SCALI: Adding on the storefront.

MR. GOLDBERG: It's also increasing the capacity of the premises. I have the architect here and he can answer any and all of your questions with regard to the plan itself. I have copies of the plans for the Board.

MR. SCALI: That would be great if we could see those. So basically you're doing so well, Mr. Singh, I'm hoping that this is going to be a great extension of your current premises. Same menu, same concept?

MR. SINGH: Yes. It will be a little bit changed. The concept will be the same and also because that's 31 years old restaurant, it needs renovations. That's the only way we can -- we cannot afford to close that place. The Phase 1 will be ready first and then Phase 2 we can put together.

MR. GOLDBERG: If you're looking at the premises, Mr. Chairman, Phase 1 is the addition. Phase 2 is the present restaurant he's

going to complete. Mr. Simon here is the landlord, so if you have any questions of the landlord you can ask of him. He's here endorsing this petition.

MR. SCALI: Phase 1, meaning you're going to renovate and complete that new section first, move into there, and then renovate?

MR. GOLDBERG: Complete that section, move in there, and then the present restaurant will be remodeled.

MR. SCALI: I see.

MR. GOLDBERG: Let me just say this: This is a plan which indicates the style of the type of name which has been approved already. It will be centered within the premises itself.

MR. SCALI: So how many seats are going into the new section?

MR. GOLDBERG: Ninety-five.

MR. SINGH: The total will be 95; 32 seats and --

MR. GOLDBERG: And 64.

MR. SCALI: So 64 in the current location?

MR. SINGH: Now 60, and 35 is going to be in the new section.

MR. SCALI: So 60 and 35?

MR. SINGH: Right.

MR. GOLDBERG: This is Mr. Preston Richardson who is the architect.

MR. RICHARDSON: Generally when they were speaking just a moment ago, presently there's a wall in the space, right here. This is inside the restaurant. We'll leave that wall intact while we build the new handicap access ramp, and build out the space to the north. Once that's intact and ready to go, we can put our efforts into the old space.

MR. SCALI: How much time will it take to complete that section, then close down the other section?

MR. RICHARDSON: That's always one of those interesting questions, isn't it? Do we have a contractor schedule yet?

MR. SCALI: What's the basic timeframe you have?

MR. SIMON: We're looking --

MR. SCALI: Just tell us your name.

MR. SIMON: Michael Simon, general partner of Central Properties, LLP, which owns the property. We're looking for a substantial completion certainly by June.

MR. SCALI: So it's about a six-month project to complete the whole thing.

MR. SIMON: Our plan is as soon as -- as you're facing the restaurant, as soon as you finish the right-hand side and Mohan is ready to move in there, we're going to immediately go to the left. We don't want to wait like a week or anything, we want to just go over and keep the momentum going.

MR. SCALI: Are you going to be operating in the new section while the other section is closed?

MR. SINGH: Yes.

MR. SCALI: So you're going to move into the new section, operate, and then --

MR. RICHARDSON: Part of the plan is

that the new section has a new kitchen so we're not trying to swap out a kitchen overnight. It's going to be fully built and ready to go.

MR. SCALI: So will there be two kitchens eventually?

MR. RICHARDSON: Not really, because the date this opens, this one goes away. Of course, there will be a temporary wall until that is available.

MR. SIMON: It will be very substantial upgrade to that property, both aesthetically and as far as just usefulness and practicality.

MR. HAAS: So this Phase 2, you're actually going into a smaller space initially? So it's 60 and 35 seats? You'll actually be moving into a smaller space when you go back to renovate the existing space; is that the idea?

MR. RICHARDSON: There will be a period of time when there will be less seats while the construction is getting completed, I believe, yes.

MR. SIMON: That would be the first phase, not the second phase. When they move over they'll actually move into a space similar in size to the restaurant they're in now.

MR. RICHARDSON: It really has to do with just where the demising wall is currently, and how the ramp has to go in.

MR. HAAS: I understand, but for all intents and purposes, let's make believe the wall is still up there; it would still be 60 and 35 as the seating capacity. It's 60 in the old section, 35 in the new section. So you're going to move into a smaller section temporarily when you go to do the renovations in the original existing restaurant. And that's not going to have an impact on your restaurant business?

MR. SINGH: No, because the new place is going to be the smaller seating, less seating. So because we are adding a new kitchen in there. But the size of the store, both the new and old, is equal. The seating is going to be less because we are taking kitchen space.

MR. SCALI: How come the plans say 32 and 64?

MR. SINGH: Because there are five seats at the bar.

MR. GOLDBERG: There's a small little bar there near the --

MR. RICHARDSON: Back in this rear corner there's five more seats, a small bar.

MR. SCALI: But you're telling me 60 and 35, so the plans don't match your application. So is it going to be 60 on the Pahse 2 side?

MR. RICHARDSON: No, 60 is existing.

MR. SINGH: Sixty is existing now.

MR. RICHARDSON: It's 65 including the bar seats here, plus the 32.

MR. SCALI: Say that again.

MR. SIMON: It's 63 plus 32, and that should add up to the application.

MR. SCALI: So your plan says 64.

MS. LINT: This one says 63.

MR. GOLDBERG: If you note, Mr. Chairman, that structure is to be determined

because right as of the moment, it houses the original restaurant. When they complete the new restaurant, then they'll move into the old restaurant, and they'll restructure that.

MR. SCALI: The plans need to match the application.

MR. GOLDBERG: Yes, I appreciate that.

MS. LINT: This one says 63. His diagram says 63. But yours says 64.

MR. GOLDBERG: That's the old one.

MR. RICHARDSON: That may be outdated. I'm not sure where that came from.

MR. SCALI: So 63 and 32.

Anybody from the public want to be heard on this? No hands.

MS. LINT: I do have several letters in support of the application.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: A couple of issues. Just so I understand this correctly, you're going to maintain to operate the existing restaurant while

you fit up the new space; correct?

MR. SINGH: Yes.

MR. TURNER: I notice on the current existing restaurant you have two means of egress, and on the -- I guess at the end of the day, at the end of the job, those egresses go away and you're combining into one main egress. Are those egresses going to be impaired?

MR. GOLDBERG: There are two egress that will stay in the back.

MR. RICHARDSON: There will not be any disruption in egress during the construction.

MR. TURNER: Are you aware that your Ancil system is noncompliant?

MR. GOLDBERG: Yes. The guy who does come to inspection, he says in 90 days you have time to upgrade that system, because right is the dry chemical. He said it should be a liquid chemical now. He gave me 90 days that it should be done.

MR. TURNER: It was tagged June 30, so 90 days would be September 30, and here we are into

November almost approaching November 30.

MR. SINGH: They said to me they will come automatically but they didn't show up. I will call them.

MR. TURNER: You have to pay them to show up.

MR. SINGH: Naturally I have to pay them.

MR. SCALI: You need to upgrade your Ancil.

MR. TURNER: This is where it gets interesting. How long before the new kitchen comes online? In other words, I'm not going to sit here and make you upgrade a system that's going to be torn out. Is that the real issue?

MR. SINGH: Well, if I start it tomorrow or the day after tomorrow, naturally they're going to charge me. But the kitchen if we have ready by December or January, then naturally the new system is going to come there. I can go along with the dry system; it's been operating for the last 31 years.

MR. TURNER: Right, exactly.

MR. SINGH: So if you have a better for two months then I have to go for it.

MR. TURNER: Let's do this: let's work with the your inspection company to give us a request in writing to do exactly that because certainly I can't see putting all new equipment in only to get torn out three months from now.

MR. SINGH: So I will ask them if they can go along with that.

MR. TURNER: Let's do that so we can make that noncompliant tag go away.

MR. SINGH: Thank you.

MR. TURNER: No more questions.

MR. SCALI: Mrs. Lint, is there another issue with regards to something from a previous application about this?

MS. LINT: I don't see that person here so it would lead me to believe it's -- I wasn't asked to bring it up.

MR. GOLDBERG: That has been resolved.

MR. SCALI: That's been resolved with

regards to that other person who complained about something.

MS. LINT: I suspected that might happen.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve subject to the waiver for the Ancil system in the old kitchen.

MR. SCALI: Have you been to 21-Proof training, your staff?

MR. HAAS: They serve alcohol?

MR. SCALI: This is beer and wine.

MR. TURNER: Mr. Chair?

MR. SCALI: Another comment?

MR. TURNER: What is the square footage of the new space.

MR. SINGH: It's about 1,400 square feet.

MR. TURNER: No more questions.

MR. SCALI: Motion to approve subject to resolving the Ancil system --

MR. RICHARDSON: It's 1446.

MR. SCALI: -- noncompliance. And since you've never been through 21-Proof training, we'd like you and your staff to go through 21-Proof training. You may have done some part of it in the past but Mr. Connolly will come out there.

MR. SINGH: Regarding food safety?

MR. SCALI: No. With regards to the 21-Proof alcohol server training with Frank Connolly. You've come to some of our meetings before. I think you've seen r. Connolly there before. We try to get people to come in and do it as they go along. You've been here long enough to know the rules but you may have some new staff that will benefit from it. You're a CLAB member; right?

MR. SINGH: No. I get the e-mail all the time from them.

MR. SCALI: That's a motion.

MR. HAAS: Yes.

MR. SCALI: Moved and seconded. All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Good luck with your
renovations.

MS. LINT: Application: Wahoo, Inc. d/b/a Genki Ya, Que Tai Duong, Manager, has applied for a new Wine and Malt Beverages as a Restaurant license at 231 Alewife Brook Parkway with proposed hours of operation from 11:00 a.m. to 1:00 a.m. seven days per week and a seating capacity of 45. Applicant is also applying for an Entertainment license to include: audio tape machine/CD playing music below ordinary conversation level, and two TVs.

MR. SCALI: Good evening.

MR. CRANE: My name is Attorney Kevin Crane, 104 Mount Auburn Street. I represent the petitioner in this particular matter who is Wahoo, Inc. d/b/a Genki Ya. I have the green cards.

MR. SCALI: Abutter notifications.

MR. CRANE: To my left I have Jason Yu, Y-U, and to his left is Que, Q-U-E, Z. Duong, D-U-O-N-G, and to his left is Hua, H-U-A, Zhao, Z-H-A-O. Mr. Yu is going to be a 40 percent owner. Mr. Duong will be a 20 percent owner, and the manager of record. And Mr. Zhao will be a 40

percent owner.

The location is -- if you're not familiar with it is -- the old Ground Round location, which there has been the new structure erected. This is the last available space in that particular structure.

MR. SCALI: It's the whole new building at the very end. Is it at the very end?

MR. CRANE: This place is pretty much in the middle. There's a T-Mobile on one end, Chipotle, Sleepy's, and then I think it's our space, Sav-More Liquors, and the TD Banknorth.

MR. SCALI: So next to Sav-More?

MR. CRANE: Yes.

The restaurant is an all natural and organic food restaurant. The operators presently operate a restaurant over in Brookline at 398 Harvard Avenue and they've been there for two years. There have been no problems whatsoever at that location. I did speak with the town administrator for Brookline, Mr. Kelliher, and he said there was no problems and if Cambridge wanted

to talk to him, he'd be more than glad to speak to them.

I do have the menus that they have in Brookline, which would be the same ones that we have here.

MR. SCALI: These are like books.

MR. CRANE: Wait until you see the pictures, Mr. Scali.

MR. SCALI: You might get the Commissioner there for an early dinner.

MR. CRANE: The proposal is for 45 seats. There will be 10 tables of four and a sushi bar area, which will have five seats. The hours of operation proposed will be 11:00 to 1:00. I do have a couple of extra copies of the floor plan.

MR. HAAS: Would that be all seven days?

MR. CRANE: Seven days, yes.

The orientation of the building is a little different because the Alewife Brook Parkway is actually considered the rear of the building. There is an entranceway to the rear of all these

retail establishments from Alewife Brook Parkway and that is where the deliveries will be taken in. The parking space on the Wheeler Street side of the premises is really the front access to all of the establishments.

The trash is presently picked up there four times a week. There is a 10-yard trash receptacle enclosed in the parking lot, which is used by all the tenants in this particular structure. I believe CVS and Trader Joe's have their own separate trash and recycling. There are also three recycling bins out there too: two, 2-yards and one 4-yard. They're picked up twice a week.

The deliveries would be on the side of the building toward Concord Avenue and brought in the rear of the building on Alewife Brook Parkway.

Hopefully it will be about 10 employees. There seems to be a need in the neighborhood. The only restaurants that are really sit-down and have any sort of alcohol service that I know of are Summer Shack and Bertucci's. Maybe

with this particular ethnic orientation we will have some balance there. The Ninety-Nine has been closed for quite a while, and the Ground Round as well has been closed for quite a while.

MR. SCALI: And Tokyo is gone. So there's not really much left up there that was there before.

I'm assuming you tried to buy a Beer and Wine in the City already because this is a Cap zone.

MR. CRANE: As far as the existing inactive licenses are concerned, Mr. Scali, I've contacted the ones that remain. The problem is that the capacities are so large that the number that they're asking for for the license is just not justifiable from my client's perspective. We're only going to be 45 seats. I think the smallest inactive one that I know of is the one down in Kendall Square, the --

MR. SCALI: Shine?

MR. CRANE: Not the Shine. The one that was right on Main Street almost at the tunnel.

MR. SCALI: Florentina's.

MR. CRANE: And I think that's about 85 to 90. All the other ones are in excess of 200 to 300 seats.

MR. SCALI: Entertainment is only background music playing below ordinary conversation level, two TVs.

MR. CRANE: Yes.

MR. SCALI: There is no pledge because it will be a no-value license, nontransferable. So there's no value to the license. If you need that, that wouldn't be part of it.

Any questions?

MR. HAAS: Are they going to continue to operate the restaurant in Brookline?

MR. CRANE: Yes.

MR. HAAS: Who is going to be the manager that's going to be on premises?

MR. CRANE: Mr. Duong.

MR. HAAS: No other questions.

MS. LINT: Backgrounds are in.

MR. SCALI: Anybody from the public

want to be heard on this? Comments?

MR. TURNER: One question, Mr. Chair. Who are the tenants on each side? I see "adjacent tenant, adjacent tenant."

MR. CRANE: As you look at the from the front, the Wheeler Street side, Sav-More is to the immediate right, and to the left is Sleepy's.

MR. TURNER: Sleepy's is mattresses?

MR. CRANE: Yes.

MR. TURNER: Do we know what the demising walls are constructed of?

MR. SCALI: Are you worried about noise or smell, or that kind of thing, Commissioner? That's a good question, because I think you'll be the -- well, Chipotle is up there too, right? We're always concerned about the fact that if you're cooking or there's more noise that people who are retail on either side may have an issue with that. So you want to make sure that what's in between you and the stores on either side of you sufficiently buffer what you're doing inside your restaurant. Do you have any idea?

MR. CRANE: I'm not sure what the composition of the wall is.

MR. TURNER: Just keep it in mind. Thank you. No more questions.

MR. SCALI: Just out of fair warning, if it should come up in the future, you need to make sure that while you're doing your build-out now, if you're doing that now, to incorporate whatever is necessary in case there is a noise issue, a smell issue, a ventilation issue, because it will come back on you later on to us making you responsible to fix all that. So while you're doing it now and you're spending all the money to build it out, do it right, vent it out the right way, buffer the walls in a way that won't be noisy on either side, and you'll be good to go later on in the future if it comes up. Am I right, Commissioner?

Any other questions?

MR. HAAS: No other questions.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: Motion to approve no-value, nontransferable, subject to 21-Proof training, and that would be for you and all of your staff. Moved, seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck. What's your plan to open?

MR. YU: Early next year.

MR. SCALI: January?

MR. YU: Not January, maybe February or March.

MS. LINT: Application: Legal Sea Foods, Inc. d/b/a Legal Sea Foods, Paul Burke, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 5 Cambridge Center has applied for a change of manager from Paul Burke to Myles Eason.

MR. SCALI: Good evening. Just tell us your name for the record.

MR. EASON: Myles Eason.

MR. SCALI: Tell us your experience in the restaurant business.

MR. EASON: I've been a general manager with Legal Sea Foods for approximately nine months. Prior to that I was a restaurant owner in the Commonwealth of Virginia. I've been a restaurant manager for Tavern of the Green in Manhattan, and general manager at the Cask and Flagen in Kenmore Square next to Fenway Park.

MR. SCALI: You've got quite a lot of experience. You know the alcohol rules and regulations; you know the laws?

MR. EASON: I sure do.

MR. SCALI: And you're going to be at
the --

MR. EASON: Kendal Square location.

MR. SCALI: Background checks?

MS. LINT: Yes.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public
want to be heard on this matter? No hands.

MR. SCALI: Pleasure of the
Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

MS. LINT: 21-Proof?

MR. SCALI: Have you been through our
21-Proof training?

MR. EASON: ServSafe, yes. Our
company has a policy for ServSafe training.

MR. SCALI: We do require that all of
our managers and/or servers go through our 21-Proof
training. I think I talked about this at the

location at the Charles Hotel. We had this very same discussion I think at the time. We do ask that you go through the 21-Proof training, which is a Cambridge-based training program, although I'm sure you are very well versed in the law. It sounds like you would know them very well, but this will help you understand Cambridge issues more than anything else.

MR. EASON: I attended the meeting last month and the Marriott car towards the one that you are Frank speak and you going to you we location that is moved seconded with 21-Proof training welfare.

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck.

MS. LINT: Application: Mount Auburn Post 8818 V.F.W., John Rocca, Manager, holder of an All Alcoholic Beverages as a Veteran's Club license at 668 Huron Avenue has applied for a change of manager from John Rocca to Ronald Muti.

MR. SCALI: Good evening. You've been waiting patiently over there on the side. What's your name?

MR. MUTI: Ron Muti.

MR. SCALI: Tell us how long you have been with the club and what your duties are.

MR. MUTI: I've been with the club -- let's see, I got back from Vietnam in '68. I've been with the club since then. I've been an assistant manager for about seven years. I've also managed other clubs as well since I've retired.

MR. SCALI: When is your club open?

MR. MUTI: It's open every day from 12:00 to whatever closing time is, usually about 10:00 or 11:00 at night, unless we have functions and then it closes at 12:00.

MR. SCALI: Tell us what your policy

is on functions. How do you book your functions?

MR. MUTI: Just over the phone like that there, and stuff like that. We always have a manager on duty. I'm always on duty when there's a function.

MR. SCALI: What kind of functions do you book?

MR. MUTI: Police, Fire, weddings; we've had weddings and birthday parties, a couple of bar mitzvahs.

MR. SCALI: He's not saying the right thing, Commissioner.

MR. HAAS: I know.

MR. SCALI: I was hoping you were going to tell me these are club sponsored members and their guests events.

MR. MUTI: Of course, that's automatic.

MR. SCALI: I didn't really hear that. Just so you understand, we know the clubs are having a difficult time in terms of making money but the law is that events that are in your club

are for members only and guests of members. So whenever you're booking an event, a club member has to be there and sponsor that particular event.

MR. MUTI: Because otherwise we'll lose our nonprofit status as well.

MR. SCALI: There you go. What's your policy on games of chance and gambling?

MR. MUTI: All we have is the lottery; that's all we have.

MR. SCALI: So no card games, no poker machines?

MR. MUTI: No, none of that. A few whist games, Scoop.

MR. SCALI: But no betting.

MR. MUTI: No.

MR. SCALI: Questions?

MR. HAAS: I think last summer, and I may be confusing your VFW with another one, there was a promoter out of New Hampshire that was trying to book space. Was that in your VFW or was that someplace else?

MR. MUTI: It wasn't ours. It might

have been the one down on First or Second Street.

MR. HAAS: I'm sorry, you're right.

No other questions.

MR. SCALI: This is the one that's now the renovated location with Sheila Russell.

MR. MUTI: The one we donated to the Youth Center.

MR. SCALI: You have the space downstairs?

MR. MUTI: Behind, all the way in the back.

MR. SCALI: And they have the dance and that kind of thing?

MR. MUTI: That's all upstairs now.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard in this matter? No hands. Background check?.

MS. LINT: All set.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: It's moved and seconded.

All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Do we do 21-Proof for club members?

MS. LINT: I think we do.

MR. SCALI: Have you been through 21-Proof at all?

MR. MUTI: Excuse me?

MR. SCALI: Have you been through 21-Proof, our training program?

MR. MUTI: Oh, yes.

MR. SCALI: You've already been through it?

MR. MUTI: Yes.

MR. SCALI: Did Frank Connolly come out there to train all of you?

MR. MUTI: No, but we'd like to have that come in for the new bartenders. We just hired

a couple of new ones.

MR. SCALI: We'll make it so there's 21-Proof training so you can have your bartenders trained.

MR. MUTI: I thought you were talking about the one we just had, the yearly one for the license thing.

MR. SCALI: That was a good entree into the training.

MR. MUTI: A good stepping stone.

MR. SCALI: Thank you very much.

MS. LINT: Application: P.F. Chang's China Bistro, Inc., Michael Penna, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 100 Cambridgeside Place has applied for a change of manager from Michael Penna to Ahmed Soufan.

MR. SCALI: Good evening.

MR. UPTON: Good evening, Mr. Chairman, Commissioners, Andrew Upton with the law firm of DiNicola and Upton representing P.F. Chang's China Bistro, Inc. With me is the proposed manager, Ahmed Soufan.

As the Commissioners may recall, when we initially applied to get the license we had the regional manager who served as kind of a placeholder or operating manager. Mr. Soufan was appointed soon after, and in fact, came to our last approval hearing. So he's been on-site since before the place opened and now the regional manager is moving on to do other openings. and he has taken over completely.

Mr. Soufan and the 57 other full-time

staff people have been trained in 21-Proof.

MR. SCALI: You've already been to 21-Proof?

MR. SOUFAN: Yes.

MR. SCALI: What's your experience in the restaurant business?

MR. SOUFAN: I was an operating partner for Longhorn Steakhouse, and was the general manager for Hard Rock Cafe in Cleveland.

MR. SCALI: Have you had a license in your name before?

MR. SOUFAN: No.

MR. SCALI: This is the first time with your name as manager?

MR. SOUFAN: Yes.

MR. SCALI: Questions, Commissioner?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard in this matter? I see no hands.

Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: Moved and seconded. All
in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you. Good Luck.

MS. LINT: Application: RK Trade Corporation d/b/a C'est Bon Convenience, Radwan Kheireddine, Manager, holder of an All Alcoholic Beverages as a Package Store license at 1436 Massachusetts Avenue has applied to transfer said license to C'est Bon Market & Liquors, Inc. d/b/a C'est Bon Liquors, Inc., George Sarkis, Manager at 1436 Massachusetts Avenue.

MR. SCALI: So here we are again.

MR. SARKIS: I'm back here again. George Sarkis, C'est Bon Market and Liquors.

MR. SCALI: SO as I understand it, the transfer and sale didn't work out as well as you had thought. It's been a couple of years, hasn't it?

MR. SARKIS: It's 18 months, on paper it's 18 months but I stayed with him for a while, too. So basically it's only a year.

MR. SCALI: Is he gone now? Is he still with you?

MR. SARKIS: He is on his way out.

MR. SCALI: So you're going back into

what you were doing before; right? Same thing?

MR. SARKIS: I did that for five years and I've only been away for a year.

MR. SCALI: So nothing else is changing; you're not renovating?

MR. SARKIS: Nothing has changed, nothing at all.

MR. SCALI: And the monetary issues are resolved between the two of you.

MR. SARKIS: That's all been resolved, yeah. I took the store back. I got rid of the note. I basically guaranteed the lease and everything so I still had my name on everything in there. With the landlord everything is fine. I paid his bills and I cleaned his name, and I just got back the store.

MR. SCALI: Is there any financing at all?

MR. SARKIS: Nothing.

MR. SCALI: Just back to you and you have forgiven all the debt.

MR. SARKIS: Exactly, 100 percent.

All the employees are still there. We've been through training, I've been through training, the employees have been through training.

MR. SCALI: As you know, it's kind of a hot spot. We had some violations there last year I think it was.

MR. SARKIS: It was basically him. It was him. It was him and his wife and son.

MR. SCALI: You know that you've got to card everyone and make sure they don't have fake IDs.

MR. SARKIS: I go by the books. I'm very strict.

MR. SCALI: Questions from the Commissioners?

MR. HAAS: Is it your plan to maintain control of the establishment or are you looking for a new buyer?

MR. SARKIS: It looks like I'll be keeping it.

MR. SCALI: But if you find a buyer, you wouldn't hesitate.

MR. SARKIS: Probably it reaches a year again, I hope not.

MR. SCALI: Comments?

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard in this matter? Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye

MR. SCALI: Good luck. We have to wait for the ABCC to approve and then we'll let you know.

MR. SARKIS: Thanks very much. Good night.

MS. LINT: Application: India House of Mass., Inc. d/b/a Bombay Club, Vinood Kapoor, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 57 JFK Street has applied to hold said license as inactive.

MR. SCALI: Good evening. Tell us your name for the record.

MR. KAPOOR: Vinod Kapoor.

MR. SCALI: You lost your lease; right?

MR. KAPOOR: Yes.

MR. SCALI: Are you closed?

MR. KAPOOR: Yes, we are closed.

MR. SCALI: And you're looking for a new location?

MR. KAPOOR: A new location. No luck so far.

MR. SCALI: I am trying to think of a way to make sure that the process is in the future probably a little better than it was in the past with regards to pledges and making sure that landlords have less control over licenses. So I'm

wondering if a review of that would be helpful to you and any other tenants in that building. I know that Mrs. Lint has been -- I know there's been other comments in terms of other people who were in that building. Is that still an issue with you and your landlord about the pledge of license?

MR. KAPOOR: I never pledged my license or anything with him.

MR. SCALI: You own the license outright?

MR. KAPOOR: Yes.

MR. SCALI: There's no pledge to the landlord?

MR. KAPOOR: No pledge, no violation.

MR. SCALI: So you're looking for a new location for that license?

MR. KAPOOR: Yes. Either license or if I can sell it at some point, but I would like to stay. There's a lot of following that we have. I would like to stay in Cambridge and open something a little smaller if I can get a good lease.

MR. SCALI: Questions?

MR. HAAS: I thought you were moving your operation to South Boston.

MR. KAPOOR: To the South End.

MR. HAAS: So you're --

MR. KAPOOR: That's a small restaurant that I have open for the time being. My son is also in the business.

MR. HAAS: Will that be temporary?

MR. KAPOOR: No, it's permanent, but my son has done hospitality and culinary arts from BU so he'll be taking care of the place, plus my life is there, so we have three family members. We have a lot of following from Harvard that I get calls. My number has been transferred on my cell phone; 25 to 50 takeouts every day.

MR. SCALI: Have you contacted other landlords in the Harvard Square area? I know there are some spaces available. I think there are spaces available. I know Mr. Rafferty has a couple of clients that have spaces available.

MR. KAPOOR: I have been looking. I've talked to landlords, but so far there's no

luck. The rents are not coming down and I have to play the numbers right. The last time my rent went up to \$33,000 a month, so that's the reason I left. I didn't exercise my option for the lease.

MR. SCALI: I was just trying to think of other avenues for him. I know you've been there 17 years.

MR. KAPOOR: Eighteen years; in the business for 30 years.

MR. SCALI: I know that maybe if you talk to the Harvard Square Business Association, talk to Denise, and talk with Stella Johnson at Community Development. They're were working very closely with landlords.

MR. KAPOOR: I'll talk to them again.

MR. SCALI: We don't want to see you leave. I guess that's my point really.

MR. KAPOOR: I appreciate that. I have my own emotions also for the place, but what can I say? If you can't afford it? Even if it was a little outside between Central and Harvard, we're looking.

MR. SCALI: Our policy is to give six month increments. So I don't see why we couldn't do that now. I guess my motion would be for a six-month inactive. That would be moved. Does anyone second it?

MR. TURNER: Seconded.

MR. BRIGHT: Mr. Chairman?

MR. SCALI: Are there comments from the public? I didn't give you an opportunity to comment. Have a seat. Tell us who you are.

MR. BRIGHT: David Bright representing India Palace. I'm with the law firm of Burlick Israel.

MR. SCALI: So you're the attorney for India Palace.

MR. BRIGHT: Yes, who is the current tenant of the space under a signed lease which sort of complicates things a bit. I think the concern is obvious. I think you get the concern.

MR. SCALI: There's your buyer, Mr. Kapoor.

MR. KAPOOR: I tried.

MR. BRIGHT: My client would say he tried as well, so to the extent that there is no direct transfer which would obviously be the most logical thing here, you would think, the obvious concern is that my client is moving aggressively to fit up the space, expects to be in there within a month. If you drive by, it's of course vacant at this point.

MR. SCALI: He hasn't applied for a license yet, your client; am I right?

MR. BRIGHT: No, he has not.

MR. SCALI: He's not going to be in there within a month then.

MR. BRIGHT: To open up without a license, to just --

MR. SCALI: You can't open up without a license and/or a liquor license to open. That's not going to happen within a month because we have no hearings until January.

MR. BRIGHT: But to the extent that he buys one on the open market and the like, comes back and goes through the entire process, the

concern is that to the extent that you have granted a pocket license essentially --

MR. SCALI: Inactive license.

MR. BRIGHT: Right. They would be effectively blocked. I guess the question for the Board is what will happen at that point in time when he comes back seeking to transfer license at that location? We're controlling the space. Bombay Club does not control the space.

MR. SCALI: I can tell you what the law is and then I can tell you what the policies are. I can tell you what we do and what the ABCC does. Essentially the law is that when you own or control a space you are allowed to extend the license to that point in time; however --

MR. BRIGHT: And that's the big however because that's what the law says.

MR. SCALI: The problem is that until that license is transferred off the premises the ABCC will not allow another license to go into that location. There are certain property rights and Mr. Kapoor has with regard to that license, and we

can very well say that license is gone from that location. He will -- I'm assuming, as we've had happened in the past -- appeal that to the ABCC. They will -- they have done in the past, they will allow them an extension to be able to sell that license. There's no one that's going to take that license away from them without some kind of hearing, or process, or appeal rights, or time to do that.

So you're right, essentially it does lock up that space until that license is transferred off of that property. You're absolutely right, but that's in terms of alcohol. But someone could apply for a Common Victualer without alcohol and that we could approve here.

MR. BRIGHT: I think that's the current plan; that's what I meant by opening under a Common Victualer. It's interesting what you say, if you look at the statute it says there are no property rights, it a license, it's revocable.

MR. SCALI: There are certain rights that they have in that license. They've paid money

for that license. Am I right, Mrs. Lint?

MR. BRIGHT: I understand the policy, and if we were in the same position we would look too, but it seems as though you're balancing interests, and whose interest gets to be weighed greater. What about my client, who will buy one on the open market, has paid good value for it and is effectively blocked.

With all due respect, there is just nothing under the statute in support of the Bombay Club remaining. They don't have a lease, they gave up the keys. He said it himself, he did not exercise his right. I know with respect to eminent domain situations and the like, that's where the government has acted, but where you don't have a premises, and you don't have control of the space, I don't know on what grounds you're really acting.

MR. SCALI: I fully agree with everything you're saying but in reality what happens is that Mr. Kapoor or whoever else has licenses is going to -- we could say the license is revoked right now, and he has every right to go and

appeal that to the ABCC and then to Superior Court if he should so choose. And the past practice has been -- and you certainly have every right to question that if you want to -- that they will give Mr. Kapoor or whoever else, more time to be able to sell or transfer that license without him losing that asset. So I agree with you; that's what the law says. And you can certainly challenge that. You have every right to do that but no judge is going to take that license from him.

MR. BRIGHT: So in this particular instance where you're balancing the interests of two private parties, we don't have government in control here, would it be reasonable to request that you extend, give him time to -- if I were in the same situation, I'd be asking for time as well -- give him a certain -- six months is what it sounds like.

MR. SCALI: That's what we do. Our practice is to give six months increments for review so it doesn't go on and on and on.

MR. BRIGHT: Here's the request: you

give six months but at the end of six months or at such time where India Palace gets approval from this Board. I think that is the best balance of individual property rights.

MR. SCALI: That's why we have a hearing in six months, or less, hopefully, if he sells it or transfers it. That's why we give six month increases so it doesn't go on and on and on and we can give people an opportunity.

MR. BRIGHT: What will likely happen at that six month period of time?

MR. SCALI: It really depends on what Mr. Kapoor does, whether he transfers it or sells it.

MR. KAPOOR: I'd be very much willing to talk to them about the price part of it outside this place. If they are buying it from outside somewhere that they are saying, I'll be very much willing to talk about that.

MR. SCALI: Negotiate on your license.

MR. KAPOOR: Yeah. And then I'll move to a smaller space with something else.

MR. SCALI: Maybe perhaps a great mediation happens and you all come to some agreement. That would be the cleanest, easiest way to do it.

MR. BRIGHT: I think that's still our position; correct?

MR. SCALI: It's up to the two of you whether you come to some agreement.

MR. BRIGHT: Right.

MR. SCALI: Thank you.

Any more questions, Commissioners?

MR. HAAS: No questions.

MR. SCALI: Anybody else want to be heard on this matter? Motion to extend six months, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Hopefully we'll see you before that.

MR. SCALI: Let's go back to Page 1.

MS. LINT: Mr. Rafferty is finally here.

Application: RB Kendall Fee, LLC, the owner of One Kendall Square, has applied to amend the 1990 cap policy of One Kendall Square. This amendment, if approved, would increase the total occupancy of One Kendall Square from 899 to 1,350. This new agreement will also limit the number of alcohol restaurants at One Kendall to seven.

MR. SCALI: Good evening.

MR. RAFFERTY: Good evening, Mr. Scali and members of the Commission. James Rafferty, and like Mr. Scali, perhaps the only person here in 1990 when this Cap policy was put in. Mrs. Lint was probably in grade school and I'm not sure about Mr. Spelios and Attorney Hope. But my co-counsel is here, Attorney Sean Hope, and you may recall Mr. Peter Spelios, Senior Vice President with the Beale Company, and they are the owner of One Kendall Square.

MR. SCALI: You were here back then,

Mr. Rafferty.

MR. RAFFERTY: In 1990, I was. I was here in 1990. Some things have changed and some things --

MR. SCALI: Stay the same.

MR. RAFFERTY: Exactly.

I know the Commission is well familiar that it's kind of a unique Cap area at One Kendall, initially created I would say as a bit of an incentive to allow for the re-development of what was the old Woven Hose on the corner of Portland and Hampshire Street. It was developed by the then Afenian (phonetic) Company, Mr. Jones and Mr. Najirian, and the third guy always escapes me.

The original plan actually contemplated a hotel. If you look at the policy, it actually talks about a hotel. It was kind of a unique Cap district in that it didn't cap the number of license, it capped the number of seats. It was a product of some negotiation.

MR. SCALI: I think we did talk about licenses, too, it just wasn't in the written

document.

MR. RAFFERTY: Right, I remember the conversations. I was only an observer. I didn't represent any of the parties. In those days, I would sit here and take notes and learn what was happening. I learned an awful lot. And here we are.

What's happened is the complex has been very successful. It's interesting that in all the activity going on in East Cambridge, one of the things is how do we create some nightlife? How do we try to keep people here at night and make it more of a mixed use environment? The theater, of course, is a great opportunity for that, and the existing restaurants are.

But as the spaces have turned over some opportunities have been created that would in the view of the owner of the property owner, serve well, or they think would work well as potential licensed establishments, restaurants in particular.

In this case, the request to amend the policy really speaks to the number of occupants

because it's consistent with that. The concept was two additional licenses being made available and the number of occupants going from 900, or 899 to 1350, not really arbitrary numbers, but contemplating two -- within that 450 increase, it's anticipated that would accommodate two more licenses at some point in the life of the project, and perhaps make some adjustments.

MR. SCALI: Is it really two more licenses?

MR. SPELIOS: No, it's actually one. The Shine premises was previously licensed and that license has been transferred off, but that was previously licensed. The Pompanoosuc Mills space would be the location where there would be an additional new license potentially, subject to obviously approval of that licensee.

MR. RAFFERTY: Right, so that's the confusion. The Shine license is now gone.

MR. SCALI: But they're looking to transfer.

MS. LINT: It's gone.

MR. RAFFERTY: That's been transferred to Harvard Square. So I say two new licenses because the license -- we're down one license and one more. It's a net of one, but it's an add of two considering that they're down one license. So it's for the Shine space, which I believe you have an application for this evening. That would allow that application to proceed consistent with the Cap policy, if you were to amend the Cap policy as we are requesting.

Then there's the Pompanoosuc Mills; that's the building out in front on Hampshire Street right at the edge of the plaza. There's been some early communication with a potential tenant. They have had a number of successful restaurants there. Recently, the Friendly Toast is attracting a lot of attention and interest; the Blue Room is a mainstay there; Tommy Doyle's has been there a long time. I believe the President of the United States even calls there on occasion.

MR. SCALI: One time.

MR. RAFFERTY: What other

establishment can say that?

MR. SCALI: That's true. You have Flat Tops there, too, and the cinema. It is a very popular space.

MR. RAFFERTY: So the thinking was that given the success the space has had, and rather than do this one off in piecemeal, I know there has been conversation for many months under Ms. Lint's guidance as to why don't you come in and think in a macro sense about what you see as the next generation.

There's been a lot of capital put into the place recently, and there's anticipated even further improvements in terms of lighting, and masonry work, and landscaping and courtyard improvements, and the like.

The idea here is with the new ownership, and Mr. Spelios' company has only owned it about two years would be my estimate. Lincoln Property purchased it. They were a somewhat short-term owner; they had it for a couple of years.

The Beale Company has a long tradition

of holding and owning and managing property in Greater Boston, particularly in Cambridge. They definitely have a long-term view of this asset. Mr. Spelios is one of the principals of the company who is working to kind of position it and bring it along. The occupancy has slowly improved and they work very closely in trying to find the right mix of tenants and not having people that would compete against each other.

MR. SCALI: What is the overall plan for those two spaces? I'm assuming you very thoughtfully have gone through a plan since what happened with Shine there was not a very popular thing with your tenants and other restaurants in the area, and then of course, the incidents that happened with them as well. If you're thinking outside the box, or thinking in terms of making your tenants and customers happy, what is the goal of those two spaces in terms of mix?

MR. SPELIOS: Great question. Really quickly with regard to the Shine premise. That was a tenant that was assumed when we acquired the

property, and we actually acquired it three years ago, 2006. Shine was already a tenant. That was a lease that pre-dates our ownership by far. We had many discussions with this Commission about Shine, with Elizabeth specifically, about the issues with Shine. From Day 1, we used every avenue possible to make sure that that tenancy came to an end because it wasn't in the best interest of the community nor our complex.

Going forward, and you folks have an application tonight for that space, quite frankly we're happy to say that this new tenant will be under our leasing regime, if you will, and the requirements that we put on tenants like this in terms of controlling behavior, for lack of a better phrase, to make sure that they behave in a way which we think is consistent with our other retail and restaurant tenants, as well as the fact that we have a very dynamic neighborhood within feet of our complex here, and we take that very seriously as well.

The Pompanoosuc Mills space is a space

that has been historically used for genuine retail space, most recently furniture sales, et cetera. The reality is that we have been approached by several retail chains, Staples, et cetera. We've made the decision that we don't want to be leasing to chains. We think quite frankly One Kendall is a very dynamic, very Cambridge-like place that really allows for local businesses like Cambridge Brew, like Tommy Doyle's, like Friendly Toast; places that originate out of Cambridge or have good local followings here.

We think it's a great destination place for a restaurant use because of its visibility being right on the corner of Hampshire Street with great window lines, et cetera. We've gotten some really tremendous interest even despite the economic situation we're in; people that are looking to start new ventures or expand existing ventures that are in Cambridge or in Boston.

One of the impediments has been the fact that the Cap doesn't contemplate that this space -- and I think people are reticent to bide

time with us, if you will, as we seek a Cap increase and then a subsequent license approval. Our hope here is by doing the Cap increase anyway, understanding that a future licensee approval is still going to be required, it allows us to tell people that genuinely this is a restaurant contemplated space by the City, and gives them more hope then, instead of stopping their efforts with regard to other spaces that when they pursue this space it's a legitimate space for them to be pursuing subject obviously to this Commission's approval of the licensee for the space.

MR. SCALI: So Zoning is okay I guess then as I understand it from talking with Ranjit about the parking, because the garage is there and has enough spaces; am I right?

MR. SPELIOS: Correct.

MR. SCALI: The idea is to take some portion of this increase of capacity and assign it per se to the old Shine space, which is the people that are proposed to come in for Think Tank, and then in the space where Pompanoosuc Mills is, or

was, the idea is to put the remainder of the capacity in there. Do you know what number that would be about?

MR. SPELIOS: It's broken down. The existing capacity for the Shine space is 140, which is much less than the capacity of the space would allow in terms of occupancy, et cetera. So that increase would be a total increase of 86 to take that to 226.

MR. SCALI: So 226 in the old Shine space.

MR. SPELIOS: Correct, and then Pompanoosuc Mills obviously has a zero capacity currently, and that would be an increase to 356, which again is consistent with the size of that space, which is a -- just by way of description, the Pompanoosuc Mills space is actually a two-level space plus a mezzanine. There's a first-floor space; there is a basement space; and then above the first-floor space there's actually an interior mezzanine that in terms of the interior space, you walk up a set of metal stairs and that is actually

a steel structure built inside the building as a mezzanine space. So that exceeds about 9,000 square feet total.

MR. SCALI: So a total of 360 on those three levels?

MR. SPELIOS: It's 365, for a total of 461 is the overall increase request.

We based those numbers on the calculation of the GFA of those spaces, taking into consideration usable space for seating areas vis-à-vis kitchen areas to try and come up with some realistic numbers.

MR. RAFFERTY: Obviously it's based on an envelope. A particular application would have to show floor plans and seats and chairs. The thinking was not to cut it too short and then perhaps have some flexibility with other tenants in the space.

MR. SCALI: I think as years have gone on things have changed throughout the City. We have almost gotten rid of our Cap policy per se, and we allow transfers from cap to cap. We've

allowed seats increases. We've allowed additional licenses over the past two or three years, so it's kind of changed completely. If we agreed in concept with you that this could happen, and obviously it's subject to, as Mr. Rafferty said, somebody coming in that's qualified to go into that space, we wouldn't grant a license. It would just potentially be available, if we did agree with the concept per se.

What kind of plans do you have for the outside patio area there because that's a very popular space and I know there's competition with your tenants as to who has what space. I guess the new spaces have some patio space as well.

MR. SPELIOS: I think tonight you're going to see the applicant tonight and we'll show you what the proposed outdoor space is for that application. Again, we're the ones that dictate, if you will, the outdoor space. It's not tenant driven in this regard because we're very cognizant of the fact that that's common area in a lot of ways, which is a very transient area, and there's a

lot of foot traffic that goes from Hampshire to Binney, and then Binney into the neighborhoods, and vice versa. So we're very cognizant of that.

The Pompanoosuc Mills space, because we don't have a specific user at this place, we frankly haven't identified what the proposed outdoor space is, but obviously now we come before the Commission here. We certainly maintain tight control over that because we are cognizant about our existing tenants and how they use their outdoor space. But more importantly, we're even more cognizant about the transient traffic path that goes through One Kendall, which frankly is a positive, which is what we like about One Kendall. We like the traffic from the cinema to the restaurants into the neighborhood, and vice versa. It's what makes One Kendall pretty unique.

MR. SCALI: I just want to make sure that people who have rights to that outside space stay within the space you give them. What has happened, and Mrs. Lint will tell you, we get a call from one tenant, "He's in my space," and then

we have this issue with people kind of pushing the line. So if you can delineate this is your space and you stay here, they need to adhere to that number that's out there.

The other issue, too, is in terms of anyone coming in there -- I know we have this nightlife committee and we're try to bring in more vibrancy to the City, and we're trying to bring different kids of music to the City, although, that's with a balance of residential needs as well.

We've got Lilac Court across the street; you've got the people right behind the garage. I'm not sure what the makeup is lately in terms of people complaining or not complaining, but you've got to take that into consideration when people are coming in there and applying to us. We want to see vibrancy but we want to see it responsibly done. We don't want another Shine incident that happened with police and noise.

MR. HAAS: It wasn't a single incident.

MR. SPELIOS: It was just an ongoing

series of connected events.

MR. RAFFERTY: But to Mr. Spelios' point, I know Ms. Lint would concur, Mr. Spelios was ally of the Commission in trying to rectify that situation. It was an inherited situation. They initiated the litigation to terminate the lease and get them out of the space. It is very much what they don't want to have happen. So I think under this ownership and with this approach here the likelihood --

MR. SCALI: I would agree with you 100 percent. It was great to work with you.

MR. SPELIOS: The other distinction here is that we have 600,000 square feet of other uses on the property here, which quite frankly is not to minimize the retail or restaurant uses here, it is a very important aspect of One Kendall Square, and to the extent that those tenants feel as though they're in a non-safe environment or a non-productive environment, that's very counter-productive for us.

So while we care about the diverse

nightlife and infusing some life into One Kendall Square, we're also cognizant of the fact that there are many interests that need to be protected here. There's neighbor's interests, other tenant interest, et cetera. So it's everybody's vested interest to make sure we are maintaining the proper decorum and modesty about these uses.

MR. SCALI: Questions?

MR. HAAS: Not to beat a dead horse, but I think we've had a lot of genuine concerns in as much as that space is conducive to multiple use, it was very difficult to police, particularly in that situation.

I'm glad to hear you say that you're going to be a lot more circumspect in terms of who you're going to be leasing the space to. Initially when I saw the increase I was a little bit concerned knowing how much difficulty we had with just 140 seats, to have that space increased. So I guess lessons learned. But again, that place is very difficult to police. If you have a situation there it's very difficult to control and it's

dangerous for everybody involved.

I think that's enough said but I think it's fair and unseen because the way it's configured, it's very difficult to control that space.

MR. SPELIOS: I think you'll see, again, even though it's under a new lease and a new ownership here that space is going to suffer from the same short fuse that we have and the intolerance that we have for behavior that we frankly don't think is consistent with the beneficial interest of One Kendall and the neighborhood.

MR. SCALI: You definitely need the right tenant for the right space with the right responsibility; that's really what it's about, and you know that. I'm not telling you anything you don't know.

Deputy Chief, any comments?

MR. TURNER: No comments.

MR. SCALI: I guess this would look like an amendment to the agreement from 1990 in

terms of the wording. I'm sure we can come up with some wording, Mrs. Lint, if that's what the Commissioners should so vote. I don't know if we want to make it quite that formal as we did back in 1990.

MR. RAFFERTY: I recall when the Charles Hotel Cap district was created, when the Galleria Mall Cap district was created, and this one was in that genre of we're going to create zones whereby we would allow licenses. So I don't know whether as a policy it requires much other than a vote to amend the district. Obviously any potential licensee is going to have to address all the operational concerns that would be.

As Mr. Spelios said, what it really does for them is to at least lower one hurdle to a prospective tenant, saying no, you don't have to -- the Cambridge license cap is well-known outside of Cambridge. It's a high hurdle for good reason. The standards are high and if you're capped, you're almost starting a bit behind the eight-ball. By amending the policy that's a reflection of -- it's

more than a 20-year policy; right? It's a policy that started prior to '90.

MR. SCALI: In '86.

MR. RAFFERTY: Right, it started prior to '90, but it's a reflection of -- I think an increase of one additional license is what we would ask by way of amendment here. And the capacity here, again, we would not expect that to automatically presume that the applicant coming in would be entitled to that number. It would just be within the envelope permitted. They would still need to make the case both from a Building Code perspective and a managerial perspective that space lent itself to that type of capacity.

MR. SCALI: There are not a lot of licenses for sale but there are some license for sale that are out there. I think it would be helpful if whoever is going in there, if we do grant another space for another license in that location, if they try to buy a license that's already in the City already. Since we do allow cap to cap transfers now it's not like we have set caps

where you can only transfer within a certain area.

So it is possible that someone coming into the Pompanoosuc Mills space could go to Harvard Square and get a license, or go to East Cambridge and get a license, and then apply to transfer it into your location.

MR. RAFFERTY: I would presume that the modification of the policy would allow for that. It doesn't say that it would have to necessarily be a new license.

MR. SCALI: That's what I was trying to say.

MR. RAFFERTY: As I understand the policy now, if someone were to attempt to bring in a new license from another location, they would come up against the cap policy and have to clear that hurdle before they could --

MR. SCALI: It was really the seats, the 899 was the issue.

MR. RAFFERTY: I agree.

MR. SCALI: There would be lots of options. They could try to buy another license and

bring it in, or they could apply for a new license.

MR. RAFFERTY: In my experience that's been the practice of the Board on new licenses: evidence that you made some effort and what's available, and what efforts have you made to try to find one.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Who's going to be drafting or crafting the language for the amendment?

MR. SCALI: You're looking at Mrs. Lint to try and work with Mr. Rafferty, I guess. It would be very simple. It's not a very long agreement. It's about two pages.

MR. HAAS: I just want to make sure in keeping with Mr. Rafferty's suggestion about making sure that it's clear that the licensing could be transferred and things like that. I think we want to make sure it's broad enough but yet there's --

MS. LINT: I think it was my understanding from reading the request that it wasn't that you were giving them a new license in

that space, but just allowing another one to be there. So I would make that very clear.

MR. RAFFERTY: Exactly.

MR. SCALI: Does anybody from the public want to be heard on this matter? No hands.

MR. RAFFERTY: Attorney Hope did send out communication to the neighborhood group about this matter.

MR. SCALI: Which group is that?

MR. HOPE: It was the Wellington-Harrington Neighborhood Association that works with some of the people in Linden Park, Cornelius Way, and James Way, just so that they knew this was happening tonight, the affected neighbors.

MR. SCALI: Well, I'm a bit surprised that no one is here but I guess maybe not so much -- maybe you did great work.

MS. LINT: I'll call you.

MR. SCALI: Maybe there was a hand here. Did you want to speak?

MR. GAMBLE: Just that --

MR. SCALI: You have to tell us who

you are.

MS. GAMBLE: My name is Sandra Gamble.

MR. SCALI: You have to come forward because our stenographer can't get you.

MS. GAMBLE: My name is Sandra Gamble. I'm representing Sue Robinson who lives at Lilac Court.

MR. SCALI: What number Lilac Court is she?

MS. GAMBLE: 20 Lilac Court.

MR. SCALI: Sue Robinson?

MS. GAMBLE: Yes. I was actually here about the matter of Unusual Suspects but I think this plays directly. I don't know if something was sent to the residents of Lilac Court?

MR. HOPE: Not directly.

MS. GAMBLE: Then that's why because she would have said something to me about it to ask the questions. The letters were sent out to the area and since Lilac Court is literally the area, I was wondering why we didn't know about it until we saw it in the Chronicle last week.

MR. SCALI: So your client got notice of the other application? How did she find out? She saw it in the paper?

MS. GAMBLE: Yes. We've been here all three times when it's been removed. And I'm still here.

MR. SCALI: It's kind of hard because with direct abutters, it's really a difficult spot. They really are almost self-contained in that one little block, and then to notify people across the street -- you have to be like right on the street to be notified.

MS. GAMBLE: Actually Lilac Court is right on Cardinal Medeiros, and in the past, when things have been involved in the One Kendall Square area all of the residents have been notified.

MR. SCALI: We'll talk to the Think Tank about what their abutter notification was when we get to them and make sure that they've done it properly.

I'm glad you're here because that way we know that people in Lilac Court at least know,

or at least one person knows about this happening.

Do you think your client has an opinion about this particular change? Did you have an opportunity to speak?

MS. GAMBLE: On One Kendall Square?

MR. SCALI: Yes.

MS. GAMBLE: Only in that appearing next to the one with Unusual Suspects, which has been postponed three times, she found "unusual" was the word she used. "Good timing" is another and "right before the holidays, how apropos," but that was it.

MR. SCALI: Thank you very much.

MS. LINT: Can I maybe answer that concern? It's because we couldn't hear that application until this was --

MR. SCALI: The clarification is that because this agreement was limited, they couldn't apply. So it wasn't really their fault. It was more the agreement issue.

MS. GAMBLE: When we saw the second, I had a feeling that that was probably what it was,

but those were the comments.

MR. SCALI: Thank you very much.
Pleasure of the Commissioners?

MR. HAAS: I prefer to take it under advisement until I have an opportunity to see the language of the amendment.

MR. SCALI: The motion is to take the matter under advisement subject to wording. Moved.

MR. HAAS: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: We're scheduled to vote on the 16th of December. So that's when it will come up next. You're welcome to be here if you want to be; you don't have to be here though.

MS. LINT: Application: Unusual Suspects, LLC d/b/a Think Tank, Vincent Conte, Manager, has applied for a new All Alcoholic Beverages as a Restaurant license at One Kendall Square, Building 300 with proposed hours of operation from 11:00 a.m. to 2:00 a.m. seven days per week and an occupancy of 226 (143 seats inside, 24 seasonal seats outside on a private patio, and 59 standing). Applicant is also applying for an Entertainment license to include: audio tape machine/CD playing music below, at, or above ordinary conversation level, dancing by patrons, comedy shows, darts, live musical instruments and/or vocalists with amplification, karaoke, juke box, pool or billiard table, five video games or other automatic amusement devices, eight TVs, and a photo booth.

MR. SCALI: Good evening. Tell us who you are for the record, please.

MR. MUROF: My name is Mitchell Murof, and I'm the manager of Unusual Suspects. This is Vincent Conte, who is the proposed licensee.

MR. SCALI: Start with your concept first and tell us what your ideas are, and then I want to get into the ownership and that kind of thing. Who owns what is what I want to hear.

MR. MUROF: The concept is a restaurant and nightclub. It's going to be lunch, dinner, and late night seven days a week. There will be entertainment in the evening hours from 9:00 on.

MR. SCALI: So a full lunch menu, dinner menu, and then at some point in the evening you'll change over. You'll continue to serve food I'm assuming, too.

MR. CONTE: Until at least midnight.

MR. SCALI: At some point, changing over to add entertainment with the food and the alcohol from 9:00 until 2:00. So you're looking for a 2:00 a.m.?

MR. MUROF: Yes.

MR. SCALI: Our 2:00 a.m. are only Thursday, Friday, Saturday, and the night before a holiday.

MR. CONTE: We're aware.

MR. SCALI: So the nightclub thing -- tell me about the nightclub. The nightclub concept is what?

MR. MUROF: Let me say this first and then Vincent will get into it a little bit. We are very aware of Shine and its problems and its history. The only commonality between that and this is that it's the same space.

MR. SCALI: So everything that had to do with Shine, throw out the window and we're starting from scratch.

MR. MUROF: In terms of our backgrounds, I've been affiliated with the Radisson in Cambridge for 20 years: vice president, general counsel of that hotel. During all of those years we've never had any issues. I am fully familiar with this Board and how it works, and respect that.

Additionally, the company that I'm with, Sage Hotels, also owns some other hotels. We owned the former Howard Johnson's in Kenmore Square and we still own the Fenway Boylston Street

location. In the Fenway Commonwealth and the Howard Johnson's Kenmore Square, we had a nightclub there on the roof, the old Up and Up, which was called the Star Roof at one point, and then we opened a club called Q and the Lava Bar. That's how I met Vincent; I hired him 10 years ago to work and manage the Lava Bar on top of that hotel.

I can assure you that it was our goal always to make sure that the integrity of the hotel and all the guests were satisfied. By and large, the nightclub that was above the seventh floor of the hotel was a way of making extra income, but it was our guests who were there day in and day out that we were most concerned about. Those are the people that we care most about. If there was any problem, any issue that would have adversely affected the integrity of the hotel and the guests, we would have closed it.

I can assure you during the entire time that hotel was opened, until we ultimately sold it to Boston University, and all those years that Vincent managed it, we never had a single

licensing issue.

MR. CONTE: Nor did the police ever show up once, and it was on the roof, and the only entrance to it was a glass elevator. So you know the logistics of trying to get 300 people up and down, and not once did we have any particular issues.

MR. SCALI: That was dancing and DJ.

MR. MUROF: It was a regular nightclub. That is not what Think Tank is. So I wanted to address that that was a nightclub.

MR. SCALI: This is a restaurant with entertainment.

MR. MUROF: A restaurant with entertainment.

MR. HAAS: Slash nightclub.

MR. CONTE: Actually we don't even care to use that term any more. We're looking to retro and bring back discotheque -- no, kidding.

Let me explain the concept I guess a little bit. Let me also reference, I know Rosa. I knew what she was involved in. She was actually

a customer of mine. I can guarantee you -- and you can take a peek at my résumé that it's far and above the amount of experience that she could ever have brought to the table.

In the first place, I've been in the business for 20 years. I was washing dishes at 13 years old, busing tables at 16, working in the kitchen. My first management job in the city was with Lyons Group and I managed two other locations on Landsdown Street at 21 years old. There were certain things I learned to do right, and certain things I learned to do wrong. Nothing about the management of this place is naïve to the dangers and the situations that can happen with that type of venue. I know where she went wrong, I know why she went wrong. I followed it for years.

As far as the concept is concerned, we're a restaurant first. My target demographic is the 25 to 45 year old right outside that front door. That's our bread-and-butter. From 5:00 to 9:00, there's a big amount of business to be had. Lunch of course, but that 5:00 to 9:00 business is

the staple.

With that in mind, the layout of the space is changing completely from what it is right now. The entryway is being opened up wider. You're going to have a direct straight into the room from the front door, and then the wall to the right is opening up so you can either go straight into the bar/lounge area, or right into the first part of the dining room, which is going to be up front.

Decor-wise, it's almost very linear '70s retro kind of thing with vinyl booths and banquettes. Large seating booths, six to seven tops because you have all these offices and these people upstairs that generally hang out in groups. So it's to accommodate that kind of thing.

We have the diversity of higher tables and a low lounge up to the front right as you walk in. That will create that comfortable atmosphere that people can find the seating of their choice, whether it be straight dinner style seating in the front and in the way, or lounge seating in the bar

area.

The bar is a focal point of the room because just the way we had to design it actually ended up being 16 seat bar that is dead center. It was the easiest way to do, which again, discreetly separates it from the area that will eventually during a time at night will be the entertainment portion of the room.

So regardless of the entertainment, the restaurant will always remain intact. We're not picking up tables and moving them to accommodate anything.

MR. SCALI: Is there a capacity that's seating capacity and then at some point it changes to a standing capacity?

MR. CONTE: The majority of the seating -- out of the 143, about 100 of it is actually forward of the bar to the front of the room, and then the rest is in the back. And yes, tables there will be removed.

MR. SCALI: Did you submit two floor plans then, showing dining and then --

MR. CONTE: I don't believe we removed the tables in the back from the floor plan.

MS. LINT: I have two floor plans: one is Concept Plan 3, and one is Concept Plan 4.

MR. SCALI: If you haven't done that then that would need to be done.

MR. CONTE: Actually this is it right here. This one has the tables in and this one has the tables out.

MR. SCALI: Great. So it goes from 226 to --

MR. CONTE: To 143 seating, I think that's what you're talking about.

MR. SCALI: So 143 seats at all times and at 9:00, it changes to 100 seats?

MR. CONTE: I think that is somewhat close to the way the plan broke down. The seats forward of the bar, the main dining area is the majority of the seating of the entire restaurant. You have the front lounge to the right, the front window encased area to the right. You have the dining room to the right of the bar, you have all

the seats in the bar, and then you have the low lounge in front. Then behind the bar where the dancing area will be there is another set of banquettes and freestanding tables. The breakdown is very small in writing down at the bottom.

MR. SCALI: What kind of food is it?

MR. CONTE: Part of the reason we had many push backs including what was just meeting here was conceptually we came in with one particular idea in Barfly -- you saw it -- and thoughtfully we said, you know what, you've got a bar; you've got Tommy Doyle's bar, you've got Cambridge Brew Pub, you've got Flat Top Johnny's, you've got the Blue Room all with generally what they call "American pub fare." What we're doing is a version of comfort food that really because of the name "Think Tank" allows us to encompass many things. With the submitted menu we have flavors from India, different curries. We have a lot of Korean concepts in there as well as traditional American fare, just done differently. Like instead of a burger we have a Kobe Beef Benedict. Instead

of buffalo wings we have a curry and pomegranate duck leg.

MR. MUROF: There's a copy of the menu in there.

MR. CONTE: Some of it is still in concept. I'm working with the chef and we're developing. I have a meeting this week with a kitchen consultant that's helping the chef get to Point A.

MR. SCALI: What is the price range?

MR. CONTE: Sandwiches are \$8.00 to \$12.00; entrées are going to be \$17.00 to no more than \$24.00 for the filet, if possible. We want to be really comfortable and in line with that. We want to be basically a step below only in price point to what Blue Room does. We're above quality I think from Tommy Doyle's -- I mean that's not for me to say, but you know what I mean?

MR. SCALI: Just price range.

MR. CONTE: Price range, what we're trying to accomplish is above Cambridge Brew Pub but a little bit below Blue Room, and being able to

do it cost-effectively with options especially with the late night menu that we want to serve, we want to have really interchangeable sides and things, so somebody can go I just want to snack on some fries, or something along those lines, or a side salad, or things like that.

MR. SCALI: You're serving a full menu; it's lunch going into dinner. At some point in the evening, your entertainment begins. What's your entertainment vision?

MR. CONTE: Thursday, Friday, Saturday night, ultimately. We have a history, or Mitchell does with myself, a history of clientele that we have a database of probably about 7,000 people. So it will depend: Thursday, Friday, we want to cater to the neighborhood specifically. Obviously, you have a lot of things to work with in that neighborhood. Again, I'm going to reference that 25 to 45 demographic that's right there anyway.

MR. SCALI: Like what, live groups, dancing, DJ?

MR. CONTE: Earlier in the night it

could be an acoustic. I was a big fan of the Kendall Cafe back -- actually I was born and grew up right around the corner. So the Kendall Cafe was very popular with me, and doing an acoustic act and some up and coming type of artist, singer-songwriter type stuff. We'd like to do that on the week nights earlier.

Thursday, Friday, Saturday, primarily after 10:00 would be DJ type entertainment, we're not talking wedding DJ. I want to make a reference to my history: every place that I've ever been involved in, and I've taken over many that were in disarray when I got them, I have eliminated hip-hop music from every one. I have no interest in it; I do not play it; there is no room for it.

By the way, I think you'll notice in my thing I ran Red Line for Graft and Company for two years, never with an incident from '95 to '97, and actually cleaned up there musical format -- excuse me, '05 to '07 -- without incident, as well as cleaning up and eliminating one of their quote/unquote "problem groups." Pat Lee is a great

friend and reference, I just chose to leave them to pursue this particular project.

MR. SCALI: It could be a mix on a Thursday or Friday night. Friday and Saturday night mostly DJ, dance floor, still serving some food.

MR. CONTE: The importance is the transition. Even though a DJ is playing, there's music that is just at/above conversation, a little above conversation level. That's palatable to people just sitting having drinks. The dancing comes later.

MR. SCALI: And you can still go up to the restaurant portion and eat, and go to the back if you want to stay.

MR. CONTE: Transitionally the music would inch up later in the night for people to move back if they chose. Ultimately that's one of the successful histories of how to do the mixed venue properly and that's what I taught them at Red Line originally.

MR. SCALI: Tell me a little bit about

the ownership. Mr. Murof is part owner?

MR. MUROF: Yes.

MR. SCALI: Percentage?

MR. MUROF: Myself and Vincent are 25 percent each.

MR. CONTE: We're the majority owner, then Jay Leo here as the other -- at 20 percent, he's the other majority owner. He has 22 years experience with restaurants.

MR. SCALI: What are your duties in this? Are you just an investor?

MR. LEO: I'm an investor but I'm an operating partner as well, so I'll be a manger in there.

MR. CONTE: At all times there will be somebody -- and one of the other 10 percent partners is also a restaurant person. I'm going to be there significantly pretty much all the time. I expect that, but when I'm not there, there's somebody with extensive and managerial call on duty.

MR. LEO: I've held a couple of

licenses downtown.

MR. SCALI: Which ones?

MR. LEO: The Blue Cat Cafe back when it opened in '98. I left there in 2001 for the Darma Group. I was at Armani Cafe from '94 to '98 I believe, and most recently I consulted for one year and operated for one year Bank Restaurant in the South End of Boston. I was their operations and liquor license holder for that company as well, up until March of this year.

So I've had extensive history in operations, hiring, setting up, and running a tight ship. He worked for the Armani Corporation as well as myself and we shared the same DJs. When I was running the Blue Cat we had the lounge music in the background with a DJ during dinner. We didn't have a dance floor, but then my crew would go to his place on the weekends.

MR. CONTE: Our crews paralleled for many of those years and we were good friends for many of those years.

MR. MUROF: It's a very extensive

history for all of us in the hospitality business.

MR. SCALI: Very varied experience, which is good.

MR. MUROF: But it's all in restaurants.

MR. SCALI: I know I'm jumping around a lot but I'm trying to get as much in as possible so we can get a view of what this is going to look like. So DJ, dancing on Friday and Saturday night.

MR. MUROF: Maybe Thursday, Friday, and Saturday.

MR. SCALI: Maybe that's what your plan is. People are coming out; your busy time is going to be 1:00 to 2:00. I'm sure people coming out -- what's your plan for security and noise? That's a very open courtyard there.

MR. CONTE: Let me just make sure I'm understanding the question, because I know Beale had expressed -- obviously you talked to Peter Spelios yesterday, we're very questionable about this. The people coming from the other places that close at 1:00 more, or the people coming out of our

place ultimately at 2:00?

MR. SCALI: I'm worried about your place because you are going to be one of the later ones.

MR. MUROF: Why don't you talk a little bit about how 300 people came out of Lava Bar.

MR. CONTE: That's the best thing to reference. Out of an elevator that only held nine people at a time into the parking lot of a functioning very busy hotel --

MR. SCALI: That actually works better because it's limited.

MR. CONTE: That's true, but they still gather and I think that's ultimately the plan. Ultimately depending on parking, one of our things is to try to encourage the parking in the garage. We're going to work out some sort of -- I spoke with Beale extensively on creating some sort of stamp system where they're getting a discount to park in that garage. That's all you can ultimately hope for is that they're going to use that as much

as they can.

On the nights that we do use entertainment, obviously there's going to be a security measure involved, which will include policing and cleaning the outside when all patrons have dispersed.

The first way to eliminate any hostile issues is not to create it yourself by "get off the property." I have many years, starting with Lyons Group in an 800 capacity club, working a 3,000 capacity club on Block Island, a restaurant/resort that I ran, and managing groups of people by just giving them almost -- do unto to others. "Folks, listen, we've got neighbors, can you please move along," so on and so forth.

If you're going to start pushing and kicking people out -- there's a whole manner of checks and balances that happens before you even get to the point of people leaving. People coming in, it starts with "Hi, how are you guys doing tonight?" Not, "Can I have your ID please," or any of that kind of thing. So there's a process and

they all sound like little things but funny enough, you put them together a certain way and your customer base is respecting what you're trying to accomplish, therefore, they're less likely to be deviant in any other capacity.

The fact is in any of those places a lot of people are coming out a one majority of time, whether it be 1:00 or 2:00, it's happening. The thing for us is after the rest of those guys go out on certain nights, then our customers go out, so you actually have a level of disbursement that's probably better than if all of them were coming at 1:00 and mixing.

As far as the other places trying to leave and then come into our place, no, you cannot expect to get into our place. Ultimately there are a lot of deterrents there, whether it be cover charge, or so on and so forth. But after 1:30, you don't allow new customers. It's not the customer base you want. They're a liability at that point if you've been drinking somewhere else. They're not necessarily looking for trouble, not everybody

is looking for trouble but the point is our doors close at 1:00.

MR. SCALI: So you have a screening process at that point in time, making sure that people are not leaving from one establishment going into your establishment who already have been drinking or whatever they were doing in terms of causing noise or trouble. Are you going to have security people outside as well as inside making sure they get to the garage?

MR. CONTE: Yes. Pretty much every night you'll have somebody at the door, a greeter of some sort. Ultimately on those nights of course, more than one, as well as they will be trained and monitored by myself.

MR. SCALI: Have you spoken to your neighbors there? Have you gone to the Blue Room, have you gone to Flat Top Johnny's, have you gone to Tommy Doyle's and tell them what you want to do? Because they have expressed to us that they're scared to death that you're going to scare their business away.

MR. CONTE: My biggest concern was first would be abutters and I sent those letters out a couple of times.

MS. LINT: I have no abutter notifications.

MR. CONTE: I have the certified tickets.

MS. LINT: I need them all.

MR. CONTE: Oh, you're supposed to see them. I wasn't aware of that. I have them. I do have them. In fact, I have them twice.

MR. SCALI: So you have not gone to the --

MR. CONTE: To the actual neighbors because we're still in negotiation with Beale to make sure all this is --

MR. SCALI: SO that's a good step that you need to take care of.

So the abutter notifications you've done?

MR. CONTE: I was in Tommy Doyle's in Harvard Square so I do know who the people are.

MR. SCALI: There's others too.
There's Cambridge Brewing and Flat Top Johnny's.

MS. LINT: I've only heard from one of them, Cambridge Brewing.

MR. SCALI: Concerned?

MS. LINT: Yes.

MR. CONTE: Happy to have the conversation. Actually I've been having regular conversations with Melissa from Friendly Toast, obviously assuring her that I'm excited to be a neighbor with her. As a matter of fact, they're actually sharing use of that kitchen right now, the kitchen that will ultimately be ours.

MR. SCALI: Are they going to continue doing that?

MR. CONTE: No, no. They've already been asked to --

MR. SCALI: Build their own kitchen?

MR. CONTE: Yeah.

MR. SCALI: So abutter notifications: who did you notify for abutters?

MR. CONTE: I went to City Hall and

they print out the list, and basically everybody there. Then I went to the Department of Public Works and got their list as well.

MR. SCALI: We need to see that because it really depends on what --

MR. CONTE: I actually have the receipts in the car. I didn't think that I had to bring them.

MR. SCALI: We need to make sure that the proper abutters were notified.

MR. CONTE: Tonight I can drop them back off to you tonight.

MR. SCALI: Is there anything that I didn't touch upon that you want to touch upon?

MR. HAAS: I just want to understand this correctly then. Since you are proposing to be open until 2:00, you're not going to accept business from the other establishments in that courtyard into your establishment after a certain time?

MR. CONTE: There's basically a cap time in general, whether it be from your neighbors

or anybody that you want to to allow somebody in the door, and that's to be determined. Generally my policy is no new faces in the door after 1:15. If you're not in the restaurant before, ultimately what good are you to the business at that point?

MR. HAAS: We have establishments that are open later and they do in fact get customers from other places, and we get a lot of complaints because they're not really in the best of condition when they show up at the second establishment.

MR. CONTE: That's part of the TIPS policy and all of that. And ultimately as an owner as well as the manager and the conceptual designer, it's really important to me to maintain that type of thing. Again, with other places, at Red Line, and so on and so forth, we made that our policy. We were a very popular place in that neighborhood and all of a sudden you'd have people wandering over, and you're like sorry, we can't. So maybe you'd even give them a pass to come back the next time at 11:00.

MR. MUROF: We feel very strongly

about that.

MR. CONTE: Very strongly as well as very confident in how to manage it.

MR. HAAS: The other thing I can see occurring particularly in that courtyard is the establishment taking responsibility for their clients, and not saying it's not our clients, it's their clients. We had a lot of that going on in prior years. I just want to make sure we avoid that issue as well. Don't be saying it's Tommy X's or Club X's.

MR. CONTE: Unlike Shine, our clientele is their clientele, so they will be our clientele. We're pretty much gathering from the same group of people in a lot of ways, as well as bringing some of our own that will be very distinct on a Saturday night as well. I consider Saturday night more of a destination than a local because you don't have the work group. We're basically sharing from the same pool and our clientele is their clientele.

I also have a history of being

involved with other neighborhood restaurants where I was involved in CLAB with Red Line, I was involved in the North Station Neighborhood Association, and policing when I was with what is not the Greatest Bar, which was Chameleon Bar and Grill, where I actually headed up bringing in a police liaison to understand the questions and concerns that the other bar owners had in dispersing their clientele into the streets, as well as trying to develop the T-After-Midnight Program to get employees and workers home and not give them issues of drunk driving and having to deal with the customer base.

MR. SCALI: With all your experience, why this location? What attracted you to this spot?

MR. CONTE: I have been eyeing this for a while. Think Tank actually came to me a long time ago, just the name alone. There's a reason that that came up: the Bio Tech industry and the MIT area. I've eyed the space and there are certain things financially that made it viable,

being that Beale allows tenant, a TI, tenant improvement dollars. Some of that was attractive.

Originally I tried to bail Rosa out of the situation and made her a very reasonable offer. I think you guys know from dealing with her, she's not a very reasonable person, and completely went the opposite end on me. It just worked out where I was very persistent and I've always liked the neighborhood, being a Cambridge guy. I was a regular at the original B-Side, my dad was before that when it was the Windsor Tap, so I have history in the neighborhood and I watched the development from fairly close up for a long time. I'm an avid pool player so Flat Top Johnny's was a --

MR. SCALI: So you've got some Cambridge connection, you feel some connection to it.

Is there some kind of following, a group? How do you advertise?

MR. CONTE: In general, Jay and I have been in the business for 22 years, and in the City. We've been pretty visible for a long time, so we

have a lot of friends, first of all.

Secondly, through some of the other establishments we've developed this 7,000 person mature database. Everybody in that database is now 25 to 50 years old, and they're actually on our active mailing list for a particular night that we want to do. Where it's basically people like myself and Jay, we don't go out dancing, we don't do that stuff. We go out to eat and we do those things. But when a particular event happens, you can guarantee we're going to be there because we know the quality and the type of people involved. So it's based around that.

MR. SCALI: Where does this group that you intend to attract go to now?

MR. CONTE: A lot of them are restaurant people. They would come to me at Republik, they'd go to him over at Ole. He actually works at Ole currently. They go to Josh's new place, which is Starlight Lounge in Somerville. They used to go to the B-Side. A lot of them go to the Hill, which is right over the bridge in Boston,

the lower Beacon Hill area. We're restaurant people, we go out and have drinks with friends and do that.

MR. SCALI: So it's not kids, it's not going to be 18-plus?

MR. CONTE: No. I'm 40 years old, Jay is 90-something -- kidding. And that's not our demographic, our target demographic.

MR. SCALI: It's not going to be a Twitter type crowd.

MR. CONTE: No. Facebook is a very possible thing. It's very popular. As a matter of fact, we want to do our build out on Facebook. But it's not a youth-based crowd. They're not even students, not MIT students, not -- I have graduate friends from MIT that are excited about this and I've got a significant amount of friends that work in the businesses right around there.

MR. SCALI: You're looking for a new license. Have you gone out to try and buy a license?

MR. CONTE: I did. We searched

extensively as well as tried to negotiate at every level with the existing license owner that was there, and to no avail.

MR. SCALI: She sold it off to somebody else; right?

MS. LINT: It was much smaller. That's in Harvard Square. There really aren't a lot of licenses that are available other than those that are attached to situations that are currently in Bankruptcy Court or having their own problems.

MR. CONTE: Or people holding onto them for -- the old Cambridgeport Tavern I think was one of them.

MS. LINT: That's gone.

MR. SCALI: Any comments, Commissioners?

MR. HAAS: No other questions.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard? Come forward, ma'am. You've been waiting very patiently over here.

MS. GAMBLE: At least it's not 11:00.

I'm happy.

MR. SCALI: That's usually the Planning Board.

MS. GAMBLE: Sandra Gamble, I'm here representing Sue Robinson who's unavailable this evening. She has written something up that she had wanted to read:

"To Richard Scali, Chairman, Cambridge License Commission from Sue Robinson 20 Lilac Court regarding license application.

I have attended three meetings of the Commission where this application has been continued. As I am unable to come today, I've asked a friend to submit my statement.

Lilac Court is a residential neighborhood of 24 townhouses. I have lived here for 16 years. We are even by Cambridge standards a very mixed group ranging in age from two months to 70-plus, from all over the country and the world. We now enjoy seven children under the age of five. It is not true to say that there is no life in Kendall Square; we live here.

Within one block of my house there are eight establishments with liquor licenses: Hungry Mother, Tommy Doyle's, Cambridge Brewing Company, the Blue Room, Flat Top Johnny's, Friendly Toast, Anna's Pizza and Ataska. We are also around the corner from the Kendall Square Movie theater. All of the above places are well supported both at lunch and dinner by what seems to be a faithful clientele of neighbors, students, workers, and the local businesses and responsible visitors. We have found them to be good neighbors and part of our community.

Our one extremely negative experience was with the nightclub Shine, whose license you have revoked. The problem is the demographic which such a venue attracts. While I understand the very general description the license application allows for negotiation, the amorphous multimedia entertainment and amusement grab bag is so unfocused it leads me to suspect the main purpose is to sell more alcohol and accommodate whoever comes in the door. This is not what we need or

want in this neighborhood.

We already have very heavy traffic until well after midnight. The demographic attracted by a nightclub added drunken behavior past 2:00 a.m., drag racing on Hampshire Street and Cardinal Medeiros, the violent behavior outside the club, drug related activities and multiple confrontations with the police. We do not want to find our neighbor listed in the Cambridge Chronicle's police report as a marketplace for drug dealers from the Galleria Mall. And we believe this is exactly what a nightclub will attract.

We stand firmly opposed therefore, to what we believe will be a negative and possibly dangerous addition to the community. We feel very vulnerable exposed to such a clientele and hope the Commission understands our concern. I know if this meeting were not scheduled just before the holiday that other residents would have been here to express similar sentiments. Thank you."

MR. SCALI: Do you live in that area, too?

MS. GAMBLE: No. I live in Harvard Square.

MR. SCALI: So you're just here representing her.

MS. GAMBLE: Yes.

MR. SCALI: Is it her opinion that she's opposed to total concept or is it the entertainment portion of it?

MS. GAMBLE: It's the entertainment portion of it. I've been down there when the other areas as well as Shine were evacuating the area and you basically take your life in your hands, especially the drag racing on Cardinal Medeiros. they should put it back to Portland Street, maybe they wouldn't -- sorry, go back. I'm a resident.

MR. SCALI: We all think of it as Portland Street.

MR. MUROF: I would support that woman's letter myself, because everything she says is right, and that's not what this is going to be. We're not looking for that age group; we're not trying to attract that kind of clientele. We're

not going to put up with drug-related sales or canvassing of people in and around the Square when the restaurant lounge lets out, and that's just not what Think Tank is about.

MR. SCALI: I guess you can understand their concern because all they've seen is what's been there.

MR. CONTE: To reference also, it does, because we have to put in the license application a fairly vague -- we have to ask for all these things that we don't necessarily want to have, but you have to put it up there. Excuse me, let me rephrase that.

MR. SCALI: You can get to a point where you're looking at what you actually need. So there is a point when you can look at the entertainment application and say this is really something I really don't need to do or want to do. There may be certain aspects of it that you want to do that would be negotiated, and that's fine. That's why I had to ask you whether you had had any conversation with the immediate neighborhood and

the immediate establishments because they don't really know who you are. So if they don't meet you and know who you are, they don't know what to expect. That's usually the biggest misconception is lack of knowledge.

MR. CONTE: We knew we were going to have to battle pretty much the expectation of Shine and we're fully capable. I will give each one of those residents my personal cell phone number to insure you that we're not that. I have no problem with that because my history has shown, and my experience is above most on how to handle these type of things and not get to that point.

MS. GAMBLE: You might want to have a meeting with all the residents.

MR. CONTE: I'd be glad to.

MR. LEO: I have no interest in opening up a place that I, myself wouldn't want to attend. I've turned down countless offers all year long. I turned down him once because I wasn't familiar with the area and had to be sold on it. I'm just not interested in the demographic and the

activity and anything that they had experienced before. Like Vin said, we're restaurant people first; that's what I did. When I ran the Blue Cat and when we had the DJ, there's a fine line and you don't want to alienate one crowd and be heavy on the other end, so I was very good at it.

MR. CONTE: And I've done it at both levels, the complete nightclub as well as the mixed venue, which is fortunately and unfortunately the way of the future because ultimately a lot of things can't be supported by one or the other.

So you need to have a good balance and the balance has to first come with the excitement for this chef that I have is beyond belief. He's young, very fresh, very new, but I'm also working with a kitchen consultant that I have history with who I had renovate Bob the Chef's originally who was originally the executive owner and chef for the Blue Moon Companies, who you had in Harvard Square. He's now the head ice sculptor for First Night and those people, and he's actually getting the kitchen squared so Colin can run with the ball that he

needs to run with as a chef.

MR. SCALI: Mr. Spelios, are you still negotiating with these gentlemen? Have you come to some final agreement? Is there still room for discussion?

MR. SPELIOS: We do have agreement with them. It's obviously not surprisingly the lease is subject to their successful application before this Board, but we do have agreement with them.

MR. SCALI: So you're confident you can get to -- subject to our process -- get to some agreement with them.

MR. SPELIOS: We're there. We're done.

MR. SCALI: So this is not something that's still wavering in the wind.

MR. MUROF: We're done.

MR. SCALI: Questions or comments from the Commissioners?

MR. HAAS: What's the ratio of food to alcohol?

MR. MUROF: It's 55-45, food.

MR. CONTE: It's 60-40 actually for
food.

MR. SCALI: What's on the application?

MR. CONTE: 55-45.

MR. SCALI: 55-45?

MR. CONTE: Yes, I'm pretty sure.

MR. MUROF: That's what it is.

MR. SCALI: It's 55 food?

MR. MUROF: Yes.

MR. SCALI: The margin is a little
tight.

I think we need to discuss the overall plan first with the Beale Company in terms of making sure that we're settled with that and then we can get to a point where we can consider your application. I don't think that should take us too long.

What might be helpful, and maybe Mr. Spelios can facilitate this, is perhaps to somehow have a meet-and-greet or a meeting with the other establishments in the complex because I know

that they're very concerned about what's going to happen there. They lost business and they were concerned about what was going on when Shine was there. It might be helpful if you have a meeting with all of them, or introduce yourselves.

And then -- I don't want to make this a huge problem but in terms of facilitating some kind of meeting with Lilac Court. If there's a way to do that in an easy fashion --

MR. CONTE: I'd love to. Every time I've been involved I've met the neighborhood. I'll fully extend my hand to that immediately. I don't have any problem with that.

MR. SCALI: There's maybe about 10 or 15 residents in there?

MS. GAMBLE: Twenty-four. There are 24 townhouses and each one for the most part -- most of them are families.

MR. SCALI: So if there's a way to do that somewhere in the near future. The holidays are upon us and it's not easy to do this during the holidays; I realize that. It's not your fault

because that's how our schedule kind of falls. I'm guessing you're going to need some time to do all that. What is your timeframe?

MR. CONTE: Obviously through this whole process different times have popped up. February 1, I would like to pretty much shoot for February 1. Our build out is fairly minimal. It's mostly cosmetic and nonstructural wall stuff.

MR. SCALI: So that quickly you could be done?

MR. CONTE: I think so. A lot of the stuff is already in place, not in the building, meaning what we need to do. Our contractor is in place, all those things are in place.

MR. MUROF: With contractors two months turns into three months.

MR. CONTE: Ideally we're shooting for February 1.

MR. SCALI: Plus the ABCC process is a good six to eight weeks anyway. That's assuming you can get past us.

Why don't you work on the meeting with

the tenants in the complex, and if Ms. Gamble maybe could help you facilitate some meeting with the Lilac Court people?

MR. CONTE: I'm going to give her contact info before we leave.

MR. SCALI: Maybe Mrs. Lint, you could assist in terms of just reporting back and getting information back to Mrs. Lint as to how that went. I'm just not sure what kind of forum that would take. I think it's easier with the tenants of the complex than it would be with the Lilac Court people because there's so many different people and it's a bad time of year. So I'm not sure how quickly that can happen.

MR. MUROF: I would suggest that Ms. Gamble set up something whereby --

MR. SCALI: I'm not sure she's representing the whole court.

MR. MUROF: Then that the homeowner can set up something within her association.

MR. CONTE: Or if she's the voice of them, I'd be happy to speak with her and I'll come

out to meet with her.

MR. SCALI: I'm sure you all can work this out somehow and get back to us. I think you ought to take a look at your entertainment list and see what you absolutely need. We're talking about need right now, we're not talking about forever and ever. We're talking about what we can start with basically to see how that works.

We normally do a review anyway. Even if we do approve, we normally do a six-month review anyway. That would give you time to work out the bugs and the kinks if we get that far with the application at all. You could report back to Mrs. Lint as to what you want to do.

Anything else?

MR. HAAS: Are we looking to look for a continuance to give people an opportunity to come back and voice their support and concern, or are we looking for a formal report back to Mrs. Lint and then basing our actions on that?

MR. SCALI: I would like to give people an opportunity to speak if they would like

to. I really think there should be a report back as to what the neighborhood feels, and then what the tenants feel, too. I want to make sure they have an opportunity to speak as well. So we could continue it to a very early date.

MS. LINT: We only have one hearing in December and then it's January 5.

MR. SCALI: My only concern is the holidays. If it wasn't for the holidays, I would say --

MR. CONTE: I'm available to make those particular things happen.

MR. MUROF: December 16, is that --

MR. CONTE: Isn't that when you have the hearing for --

MR. SCALI: December 16 is our Decisionmaking meeting. It's not an actual hearing.

MS. LINT: We could always put it on then just given that we don't really have an opportunity other than December 8 of January 5.

MR. SCALI: It's a morning hearing

too, and that's the taxi school meeting as well.

MS. LINT: People can also submit things by letter or e-mail.

MR. SCALI: I'm going to suggest January 5 is probably a better date only because we're -- it's only a month away really. We've gotten this far, I think we can take some more time to do that.

Comments on that?

MR. HAAS: No comments.

MR. TURNER: No.

MR. SCALI: Motion to continue to January 5 subject to information on the tenants meeting, the Lilac Court meeting, and review of your entertainment categories.

Anything else, Commissioners?

MR. HAAS: No.

MR. SCALI: That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: I think you can get a lot done in a few weeks, I'm sure.

MS. LINT: Ratifications: Medallions 2, 5, 9, 12, 14, 21, 30, 58, 62, 65, 73, 75, 77, 80, 87, 91, 93, 103, 118, 175, 191, 209, 243, and 248; that was the sale from Mel Milhelm's estate to Walid Nakhoul.

Medallions 14, 91, 248, 70 and 80.

MR. SCALI: Loans.

MR. HAAS: But they're part of that larger sale; right, that transfer?

MS. LINT: No.

MR. SCALI: Yes, they are.

MS. LINT: I'm sorry. Yes, they are. I had gone over that, yes.

MR. HAAS: So that's accurate then?

MS. LINT: Yes, it is.

MR. SCALI: Is everything in order?

MS. LINT: Yes.

MR. SCALI: Motion to accept.

MR. HAAS: Motion.

MR. SCALI: Moved, seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Just reporting back to you, the Taxi School Board held their elections last week and it was actually a very interesting process because we went through about five rounds the voting in order to get a sufficient amount of votes to vote people in on the Board. There was one current Board member not voted in, Eugene Laramee and a new Board member elected, Kristin Burnakas from the Tourism Board.

There is discussion with the School Board about expanding the Board to include more numbers of people, perhaps 11 or 13. We'll talk about that our next Board meeting. There were a couple of Board members or people who were nominated that did not feel the process went well and that we lack representation from the Haitian community.

The way the process works right now with the way that the Board is elected is through current Board members voting every year. We will look at that for the future.

The curriculum for the school is

currently -- they're taking comments up until December 1. The school will review the curriculum on December 9 in the morning for final drafts, and then the hearing before the License Commission will be December 16.

At our Decisionmaking meeting there will be hearings on the curriculum. So I'm sure it's going to take a couple of hours that morning at least for comments from the taxicab community. I'm just guessing. It could be a very long morning. I don't want to scare you but that's just exactly what I'm thinking. I wanted to do it in the evening but it was difficult to come up with an evening night for all of you during the holidays.

The goal is to reopen the school the second week of January. We wanted to make sure we got everything in. Assuming we all vote that the curriculum is okay and acceptable and what you want to see, we have to let the school board know that that's what you want them to teach. And then there's room for subcommittees and curriculum development after that for changes and amendments

in the future. So December 8 and December 16 are our two hearings.

MR. HAAS: I would ask two questions: Is there any thought given to the composition of the Board, and should there be certain seats that are held by certain industries or sectors?

MR. SCALI: In the bylaws of the school it doesn't layout composition, it just lays out nine members. When it was originally laid out in 1994, and I happened to be here then too, the intention was that there would be different factions represented, like the hotel industry.

MS. LINT: Segments.

MR. HAAS: Different industries.

MR. SCALI: Hotels, seniors, tourism, drivers, owners, radio services, managers, all of that.

MR. HAAS: And eight or nine people?

MR. SCALI: We do have that actually on the Board.

MS. LINT: Disability.

MR. SCALI: Traffic and Parking.

We've got hotel, Traffic and Parking, seniors, Disabilities Commission, Tourism, radio service. We've got drivers, we've got two owners and one other person, too.

MS. LINT: And you.

MR. SCALI: And myself, me. So that's really the mix. But remember this is just the school board, it's not the subcommittee of people.

MS. LINT: What's your second question?

MR. HAAS: My second question is, and it's also kind of a statement, I'm just trying to figure out what is the school trying to accomplish and is there sufficient time allotted to accomplish what you want to try to accomplish in that school over three nights? I'm really concerned.

MR. SCALI: That is what our job is.

MR. HAAS: What?

MR. SCALI: To decide that.

MR. HAAS: I'm telling you I'm concerned that three nights may not be enough. I don't know if classroom training in and by itself

is sufficient to at least say to some degree that these new applicants are suitable to become taxi cab drivers in the City.

MR. SCALI: And that's up for discussion. It may mean that we don't open in January.

MR. HAAS: That's kind of what I'm eluding to.

MR. SCALI: I'm not saying we have to open in January, I'm just saying that that's the goal. If we vote that we have more work to do, then we have more work to do. It's already been extended from November to January, so I'm not opposed. We have to give them guidance.

MR. HAAS: If it's just going to be a perfunctory three nights and you're certified, or you're eligible to become a taxi cab driver, I have a problems with that.

MR. SCALI: Remember, time and money are the most valuable.

MR. HAAS: I understand. That's why I'm saying, why are we doing this school if it's

not to get to a certain objective or goal.

MR. SCALI: The school has never been a complete training course. It's always been a review of what you need to know. If you want something more than that, then we have to find the money to do that.

MR. HAAS: I understand, but one of the comments that struck home with me at the committee meeting was what role and responsibility do the owners, the lessors, and managers have with respect to contributing to the training of drivers, and should we incorporate that. I don't necessarily think that the school has got to bear that cost. Is there a way to re-look at the curriculum and see what makes sense to be done as a checklist out in the field so people are actually seeing what the issues are and then using classroom time more for things that are appropriate in a classroom environment.

MR. SCALI: Most definitely.

MR. HAAS: So I don't know if the school necessarily has to bear all those costs.

MR. SCALI: If the school doesn't, then we have to layout a format for who does. But I'm not sure how to look at that.

MR. HAAS: I'd want to see the employers have some investment in the people they're hiring.

MR. SCALI: Remember, there's no real employers. We have lessors, we have some managers.

MR. HAAS: Somebody is getting money from these drivers.

MR. SCALI: We have people who are making money that are not necessarily invested in the process other than just collecting a check.

MR. HAAS: I'm just trying to think if there's an opportunity to kind of reconfigure that to some degree.

MR. SCALI: This is a prime opportunity to do that.

MR. HAAS: Motion to adjourn.

MR. SCALI: Motion to adjourn, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

(Whereupon, the proceeding was
concluded at 9:02 p.m.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional Court Reporter, the undersigned Notary Public certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of these matters.

I further certify that the proceedings hereinbefore set forth is a true and accurate transcription of my record to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 2nd day of December, 2009.

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